

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763

Chapter 504, Laws of 2005

(partial veto)

59th Legislature
2005 Regular Session

MENTAL AND SUBSTANCE ABUSE DISORDERS

EFFECTIVE DATE: 7/01/05 - Except section 503, which becomes effective 7/01/06.

Passed by the Senate April 22, 2005
YEAS 32 NAYS 16

BRAD OWEN

President of the Senate

Passed by the House April 21, 2005
YEAS 67 NAYS 31

FRANK CHOPP

Speaker of the House of Representatives

Approved May 17, 2005, with the exception of Sections 402, 603, 604 and 806, which are vetoed.

CHRISTINE GREGOIRE

Governor of the State of Washington

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

May 17, 2005 - 2:07 p.m.

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE SENATE BILL 5763

AS RECOMMENDED BY THE CONFERENCE COMMITTEE

Passed Legislature - 2005 Regular Session

State of Washington

59th Legislature

2005 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Regala, Brandland, Thibaudeau, Carrell, Brown, Keiser, Fairley, McAuliffe, Rasmussen, Kline, Kohl-Welles and Franklin)

READ FIRST TIME 03/08/05.

1 AN ACT Relating to the omnibus treatment of mental and substance
2 abuse disorders act of 2005; amending RCW 71.05.020, 71.24.025,
3 10.77.010, 71.05.360, 71.05.420, 71.05.620, 71.05.630, 71.05.640,
4 71.05.660, 71.05.550, 2.28.170, 71.05.157, 5.60.060, 18.83.110,
5 18.225.105, 71.05.235, 71.05.310, 71.05.425, 71.05.445, 71.05.640,
6 71.05.680, and 71.05.690; reenacting and amending RCW 71.05.390 and
7 71.24.035; adding new sections to chapter 71.05 RCW; adding new
8 sections to chapter 70.96A RCW; adding a new section to chapter 13.34
9 RCW; adding new sections to chapter 2.28 RCW; adding a new section to
10 chapter 26.12 RCW; adding new sections to chapter 71.24 RCW; adding a
11 new section to chapter 71.02 RCW; adding a new section to chapter
12 71A.12 RCW; adding a new section to chapter 43.20A RCW; adding a new
13 section to chapter 82.14 RCW; adding new chapters to Title 70 RCW;
14 creating new sections; recodifying RCW 71.05.370 and 71.05.035;
15 repealing RCW 71.05.060, 71.05.070, 71.05.090, 71.05.200, 71.05.250,
16 71.05.450, 71.05.460, 71.05.470, 71.05.480, 71.05.490, 71.05.155,
17 71.05.395, 71.05.400, 71.05.410, 71.05.430, 71.05.610, 71.05.650, and
18 71.05.670; repealing 2005 c ... (E2SHB 1290) s 5; prescribing
19 penalties; providing effective dates; providing expiration dates; and
20 declaring an emergency.

1 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

2 **PART I**

3 **GENERAL PROVISIONS**

4 NEW SECTION. **Sec. 101.** The legislature finds that persons with
5 mental disorders, chemical dependency disorders, or co-occurring mental
6 and substance abuse disorders are disproportionately more likely to be
7 confined in a correctional institution, become homeless, become
8 involved with child protective services or involved in a dependency
9 proceeding, or lose those state and federal benefits to which they may
10 be entitled as a result of their disorders. The legislature finds that
11 prior state policy of addressing mental health and chemical dependency
12 in isolation from each other has not been cost-effective and has often
13 resulted in longer-term, more costly treatment that may be less
14 effective over time. The legislature finds that a substantial number
15 of persons have co-occurring mental and substance abuse disorders and
16 that identification and integrated treatment of co-occurring disorders
17 is critical to successful outcomes and recovery. Consequently, the
18 legislature intends, to the extent of available funding, to:

19 (1) Establish a process for determining which persons with mental
20 disorders and substance abuse disorders have co-occurring disorders;

21 (2) Reduce the gap between available chemical dependency treatment
22 and the documented need for treatment;

23 (3) Improve treatment outcomes by shifting treatment, where
24 possible, to evidence-based, research-based, and consensus-based
25 treatment practices and by removing barriers to the use of those
26 practices;

27 (4) Expand the authority for and use of therapeutic courts
28 including drug courts, mental health courts, and therapeutic courts for
29 dependency proceedings;

30 (5) Improve access to treatment for persons who are not enrolled in
31 medicaid by improving and creating consistency in the application
32 processes, and by minimizing the numbers of eligible confined persons
33 who leave confinement without medical assistance;

34 (6) Improve access to inpatient treatment by creating expanded
35 services facilities for persons needing intensive treatment in a secure

1 setting who do not need inpatient care, but are unable to access
2 treatment under current licensing restrictions in other settings;

3 (7) Establish secure detoxification centers for persons
4 involuntarily detained as gravely disabled or presenting a likelihood
5 of serious harm due to chemical dependency and authorize combined
6 crisis responders for both mental disorders and chemical dependency
7 disorders on a pilot basis and study the outcomes;

8 (8) Slow or stop the loss of inpatient and intensive residential
9 beds and children's long-term inpatient placements and refine the
10 balance of state hospital and community inpatient and residential beds;

11 (9) Improve cross-system collaboration including collaboration with
12 first responders and hospital emergency rooms, schools, primary care,
13 developmental disabilities, law enforcement and corrections, and
14 federally funded and licensed programs;

15 (10) Following the receipt of outcomes from the pilot programs in
16 Part II of this act, if directed by future legislative enactment,
17 implement a single, comprehensive, involuntary treatment act with a
18 unified set of standards, rights, obligations, and procedures for
19 adults and children with mental disorders, chemical dependency
20 disorders, and co-occurring disorders; and

21 (11) Amend existing state law to address organizational and
22 structural barriers to effective use of state funds for treating
23 persons with mental and substance abuse disorders, minimize internal
24 inconsistencies, clarify policy and requirements, and maximize the
25 opportunity for effective and cost-effective outcomes.

26 NEW SECTION. **Sec. 102.** (1) The department of social and health
27 services shall explore and report to the appropriate committees of the
28 legislature by December 1, 2005, on the feasibility, costs, benefits,
29 and time frame to access federal medicaid funds for mental health and
30 substance abuse treatment under the following provisions:

31 (a) The optional clinic provisions;

32 (b) Children's mental health treatment or co-occurring disorders
33 treatment under the early periodic screening, diagnosis, and treatment
34 provisions.

35 (2) The department shall provide the appropriate committees of the
36 legislature with a clear and concise explanation of the reasons for

1 reducing state hospital capacity and the differences in costs and
2 benefits of treatment in state and community hospital treatment.

3 (3) The department may not reduce the capacity of either state
4 hospital until at least an equal number of skilled nursing,
5 residential, expanded services facility, or supported housing
6 placements are available in the community to the persons displaced by
7 the capacity reduction.

8 **Mental Health Treatment**

9 NEW SECTION. **Sec. 103.** A new section is added to chapter 71.05
10 RCW to read as follows:

11 (1) Not later than January 1, 2007, all persons providing treatment
12 under this chapter shall also implement the integrated comprehensive
13 screening and assessment process for chemical dependency and mental
14 disorders adopted pursuant to section 601 of this act and shall
15 document the numbers of clients with co-occurring mental and substance
16 abuse disorders based on a quadrant system of low and high needs.

17 (2) Treatment providers and regional support networks who fail to
18 implement the integrated comprehensive screening and assessment process
19 for chemical dependency and mental disorders by July 1, 2007, shall be
20 subject to contractual penalties established under section 601 of this
21 act.

22 **Sec. 104.** RCW 71.05.020 and 2000 c 94 s 1 are each amended to read
23 as follows:

24 The definitions in this section apply throughout this chapter
25 unless the context clearly requires otherwise.

26 (1) "Admission" or "admit" means a decision by a physician that a
27 person should be examined or treated as a patient in a hospital;

28 (2) "Antipsychotic medications" means that class of drugs primarily
29 used to treat serious manifestations of mental illness associated with
30 thought disorders, which includes, but is not limited to atypical
31 antipsychotic medications;

32 (3) "Attending staff" means any person on the staff of a public or
33 private agency having responsibility for the care and treatment of a
34 patient;

1 (4) "Commitment" means the determination by a court that a person
2 should be detained for a period of either evaluation or treatment, or
3 both, in an inpatient or a less restrictive setting;

4 (5) "Conditional release" means a revocable modification of a
5 commitment, which may be revoked upon violation of any of its terms;

6 ~~(6) ("County designated mental health professional" means a mental
7 health professional appointed by the county to perform the duties
8 specified in this chapter;~~

9 ~~(7))~~ (7) "Custody" means involuntary detention under the provisions of
10 this chapter or chapter 10.77 RCW, uninterrupted by any period of
11 unconditional release from commitment from a facility providing
12 involuntary care and treatment;

13 ~~((8))~~ (8) "Department" means the department of social and health
14 services;

15 ~~((9))~~ (9) "Designated chemical dependency specialist" means a
16 person designated by the county alcoholism and other drug addiction
17 program coordinator designated under RCW 70.96A.310 to perform the
18 commitment duties described in chapter 70.96A RCW and sections 202
19 through 216 of this act;

20 (10) "Designated crisis responder" means a mental health
21 professional appointed by the county or the regional support network to
22 perform the duties specified in this chapter;

23 (11) "Designated mental health professional" means a mental health
24 professional designated by the county or other authority authorized in
25 rule to perform the duties specified in this chapter;

26 (12) "Detention" or "detain" means the lawful confinement of a
27 person, under the provisions of this chapter;

28 ~~((10))~~ (10) "Developmental disabilities professional" means a
29 person who has specialized training and three years of experience in
30 directly treating or working with persons with developmental
31 disabilities and is a psychiatrist, psychologist, or social worker, and
32 such other developmental disabilities professionals as may be defined
33 by rules adopted by the secretary;

34 ~~((11))~~ (11) "Developmental disability" means that condition
35 defined in RCW 71A.10.020(3);

36 ~~((12))~~ (12) "Discharge" means the termination of hospital medical
37 authority. The commitment may remain in place, be terminated, or be
38 amended by court order;

1 (~~(13)~~) (15) "Evaluation and treatment facility" means any
2 facility which can provide directly, or by direct arrangement with
3 other public or private agencies, emergency evaluation and treatment,
4 outpatient care, and timely and appropriate inpatient care to persons
5 suffering from a mental disorder, and which is certified as such by the
6 department. A physically separate and separately operated portion of
7 a state hospital may be designated as an evaluation and treatment
8 facility. A facility which is part of, or operated by, the department
9 or any federal agency will not require certification. No correctional
10 institution or facility, or jail, shall be an evaluation and treatment
11 facility within the meaning of this chapter;

12 (~~(14)~~) (16) "Gravely disabled" means a condition in which a
13 person, as a result of a mental disorder: (a) Is in danger of serious
14 physical harm resulting from a failure to provide for his or her
15 essential human needs of health or safety; or (b) manifests severe
16 deterioration in routine functioning evidenced by repeated and
17 escalating loss of cognitive or volitional control over his or her
18 actions and is not receiving such care as is essential for his or her
19 health or safety;

20 (~~(15)~~) (17) "Habilitative services" means those services provided
21 by program personnel to assist persons in acquiring and maintaining
22 life skills and in raising their levels of physical, mental, social,
23 and vocational functioning. Habilitative services include education,
24 training for employment, and therapy. The habilitative process shall
25 be undertaken with recognition of the risk to the public safety
26 presented by the (~~(individual)~~) person being assisted as manifested by
27 prior charged criminal conduct;

28 (~~(16)~~) (18) "History of one or more violent acts" refers to the
29 period of time ten years prior to the filing of a petition under this
30 chapter, excluding any time spent, but not any violent acts committed,
31 in a mental health facility or in confinement as a result of a criminal
32 conviction;

33 (~~(17)~~) (19) "Individualized service plan" means a plan prepared
34 by a developmental disabilities professional with other professionals
35 as a team, for (~~(an individual)~~) a person with developmental
36 disabilities, which shall state:

37 (a) The nature of the person's specific problems, prior charged
38 criminal behavior, and habilitation needs;

1 (b) The conditions and strategies necessary to achieve the purposes
2 of habilitation;

3 (c) The intermediate and long-range goals of the habilitation
4 program, with a projected timetable for the attainment;

5 (d) The rationale for using this plan of habilitation to achieve
6 those intermediate and long-range goals;

7 (e) The staff responsible for carrying out the plan;

8 (f) Where relevant in light of past criminal behavior and due
9 consideration for public safety, the criteria for proposed movement to
10 less-restrictive settings, criteria for proposed eventual discharge or
11 release, and a projected possible date for discharge or release; and

12 (g) The type of residence immediately anticipated for the person
13 and possible future types of residences;

14 ((+18+)) (20) "Judicial commitment" means a commitment by a court
15 pursuant to the provisions of this chapter;

16 ((+19+)) (21) "Likelihood of serious harm" means:

17 (a) A substantial risk that: (i) Physical harm will be inflicted
18 by ~~((an individual))~~ a person upon his or her own person, as evidenced
19 by threats or attempts to commit suicide or inflict physical harm on
20 oneself; (ii) physical harm will be inflicted by ~~((an individual))~~ a
21 person upon another, as evidenced by behavior which has caused such
22 harm or which places another person or persons in reasonable fear of
23 sustaining such harm; or (iii) physical harm will be inflicted by ~~((an~~
24 ~~individual))~~ a person upon the property of others, as evidenced by
25 behavior which has caused substantial loss or damage to the property of
26 others; or

27 (b) The ~~((individual))~~ person has threatened the physical safety of
28 another and has a history of one or more violent acts;

29 ((+20+)) (22) "Mental disorder" means any organic, mental, or
30 emotional impairment which has substantial adverse effects on ~~((an~~
31 ~~individual's))~~ a person's cognitive or volitional functions;

32 ((+21+)) (23) "Mental health professional" means a psychiatrist,
33 psychologist, psychiatric nurse, or social worker, and such other
34 mental health professionals as may be defined by rules adopted by the
35 secretary pursuant to the provisions of this chapter;

36 ((+22+)) (24) "Peace officer" means a law enforcement official of
37 a public agency or governmental unit, and includes persons specifically

1 given peace officer powers by any state law, local ordinance, or
2 judicial order of appointment;

3 ((+23+)) (25) "Private agency" means any person, partnership,
4 corporation, or association that is not a public agency, whether or not
5 financed in whole or in part by public funds, which constitutes an
6 evaluation and treatment facility or private institution, or
7 hospital(~~(, or sanitarium)~~), which is conducted for, or includes a
8 department or ward conducted for, the care and treatment of persons who
9 are mentally ill;

10 ((+24+)) (26) "Professional person" means a mental health
11 professional and shall also mean a physician, registered nurse, and
12 such others as may be defined by rules adopted by the secretary
13 pursuant to the provisions of this chapter;

14 ((+25+)) (27) "Psychiatrist" means a person having a license as a
15 physician and surgeon in this state who has in addition completed three
16 years of graduate training in psychiatry in a program approved by the
17 American medical association or the American osteopathic association
18 and is certified or eligible to be certified by the American board of
19 psychiatry and neurology;

20 ((+26+)) (28) "Psychologist" means a person who has been licensed
21 as a psychologist pursuant to chapter 18.83 RCW;

22 ((+27+)) (29) "Public agency" means any evaluation and treatment
23 facility or institution, or hospital(~~(, or sanitarium)~~) which is
24 conducted for, or includes a department or ward conducted for, the care
25 and treatment of persons who are mentally ill(~~(+[,+])~~), if the agency is
26 operated directly by, federal, state, county, or municipal government,
27 or a combination of such governments;

28 ((+28+)) (30) "Registration records" include all the records of the
29 department, regional support networks, treatment facilities, and other
30 persons providing services to the department, county departments, or
31 facilities which identify persons who are receiving or who at any time
32 have received services for mental illness;

33 (31) "Release" means legal termination of the commitment under the
34 provisions of this chapter;

35 ((+29+)) (32) "Resource management services" has the meaning given
36 in chapter 71.24 RCW;

37 ((+30+)) (33) "Secretary" means the secretary of the department of
38 social and health services, or his or her designee;

1 ~~((31))~~ (34) "Social worker" means a person with a master's or
2 further advanced degree from an accredited school of social work or a
3 degree deemed equivalent under rules adopted by the secretary;

4 ~~((32))~~ (35) "Treatment records" include registration and all
5 other records concerning persons who are receiving or who at any time
6 have received services for mental illness, which are maintained by the
7 department, by regional support networks and their staffs, and by
8 treatment facilities. Treatment records do not include notes or
9 records maintained for personal use by a person providing treatment
10 services for the department, regional support networks, or a treatment
11 facility if the notes or records are not available to others;

12 (36) "Violent act" means behavior that resulted in homicide,
13 attempted suicide, nonfatal injuries, or substantial damage to
14 property.

15 **Sec. 105.** RCW 71.24.025 and 2001 c 323 s 8 are each amended to
16 read as follows:

17 Unless the context clearly requires otherwise, the definitions in
18 this section apply throughout this chapter.

19 (1) "Acutely mentally ill" means a condition which is limited to a
20 short-term severe crisis episode of:

21 (a) A mental disorder as defined in RCW 71.05.020 or, in the case
22 of a child, as defined in RCW 71.34.020;

23 (b) Being gravely disabled as defined in RCW 71.05.020 or, in the
24 case of a child, a gravely disabled minor as defined in RCW 71.34.020;
25 or

26 (c) Presenting a likelihood of serious harm as defined in RCW
27 71.05.020 or, in the case of a child, as defined in RCW 71.34.020.

28 (2) "Available resources" means funds appropriated for the purpose
29 of providing community mental health programs (~~under RCW 71.24.045~~),
30 federal funds, except those provided according to Title XIX of the
31 Social Security Act, and state funds appropriated under this chapter or
32 chapter 71.05 RCW by the legislature during any biennium for the
33 purpose of providing residential services, resource management
34 services, community support services, and other mental health services.
35 This does not include funds appropriated for the purpose of operating
36 and administering the state psychiatric hospitals, except as negotiated
37 according to RCW 71.24.300(1)(e).

1 (3) "Child" means a person under the age of eighteen years.

2 (4) "Chronically mentally ill adult" means an adult who has a
3 mental disorder and meets at least one of the following criteria:

4 (a) Has undergone two or more episodes of hospital care for a
5 mental disorder within the preceding two years; or

6 (b) Has experienced a continuous psychiatric hospitalization or
7 residential treatment exceeding six months' duration within the
8 preceding year; or

9 (c) Has been unable to engage in any substantial gainful activity
10 by reason of any mental disorder which has lasted for a continuous
11 period of not less than twelve months. "Substantial gainful activity"
12 shall be defined by the department by rule consistent with Public Law
13 92-603, as amended.

14 (5) "Community mental health program" means all mental health
15 services, activities, or programs using available resources.

16 (6) "Community mental health service delivery system" means public
17 or private agencies that provide services specifically to persons with
18 mental disorders as defined under RCW 71.05.020 and receive funding
19 from public sources.

20 (7) "Community support services" means services authorized,
21 planned, and coordinated through resource management services
22 including, at a minimum, assessment, diagnosis, emergency crisis
23 intervention available twenty-four hours, seven days a week,
24 prescreening determinations for mentally ill persons being considered
25 for placement in nursing homes as required by federal law, screening
26 for patients being considered for admission to residential services,
27 diagnosis and treatment for acutely mentally ill and severely
28 emotionally disturbed children discovered under screening through the
29 federal Title XIX early and periodic screening, diagnosis, and
30 treatment program, investigation, legal, and other nonresidential
31 services under chapter 71.05 RCW, case management services, psychiatric
32 treatment including medication supervision, counseling, psychotherapy,
33 assuring transfer of relevant patient information between service
34 providers, recovery services, and other services determined by regional
35 support networks.

36 (8) "County authority" means the board of county commissioners,
37 county council, or county executive having authority to establish a

1 community mental health program, or two or more of the county
2 authorities specified in this subsection which have entered into an
3 agreement to provide a community mental health program.

4 (9) "Department" means the department of social and health
5 services.

6 (10) "Emerging best practice" or "promising practice" means a
7 practice that presents, based on preliminary information, potential for
8 becoming a research-based or consensus-based practice.

9 (11) "Evidence-based" means a program or practice that has had
10 multiple site random controlled trials across heterogeneous populations
11 demonstrating that the program or practice is effective for the
12 population.

13 (12) "Licensed service provider" means an entity licensed according
14 to this chapter or chapter 71.05 RCW or an entity deemed to meet state
15 minimum standards as a result of accreditation by a recognized
16 behavioral health accrediting body recognized and having a current
17 agreement with the department, that meets state minimum standards or
18 (~~(individuals)~~) persons licensed under chapter 18.57, 18.71, 18.83, or
19 18.79 RCW, as it applies to registered nurses and advanced registered
20 nurse practitioners.

21 (~~(11)~~) (13) "Mental health services" means all services provided
22 by regional support networks and other services provided by the state
23 for the mentally ill.

24 (~~(12)~~) (14) "Mentally ill persons" and "the mentally ill" mean
25 persons and conditions defined in subsections (1), (4), (~~(17)~~) (23),
26 and (~~(18)~~) (24) of this section.

27 (~~(13)~~) (15) "Recovery" means the process in which people are able
28 to live, work, learn, and participate fully in their communities.

29 (16) "Regional support network" means a county authority or group
30 of county authorities or other entity recognized by the secretary
31 (~~(that enter into joint operating agreements to contract with the~~
32 ~~secretary pursuant to this chapter)) in contract in a defined area.~~

33 (~~(14)~~) (17) "Registration records" include all the records of the
34 department, regional support networks, treatment facilities, and other
35 persons providing services to the department, county departments, or
36 facilities which identify persons who are receiving or who at any time
37 have received services for mental illness.

1 (18) "Residential services" means a complete range of residences
2 and supports authorized by resource management services and which may
3 involve a facility, a distinct part thereof, or services which support
4 community living, for acutely mentally ill persons, chronically
5 mentally ill adults, severely emotionally disturbed children, or
6 seriously disturbed adults determined by the regional support network
7 to be at risk of becoming acutely or chronically mentally ill. The
8 services shall include at least evaluation and treatment services as
9 defined in chapter 71.05 RCW, acute crisis respite care, long-term
10 adaptive and rehabilitative care, and supervised and supported living
11 services, and shall also include any residential services developed to
12 service mentally ill persons in nursing homes, boarding homes, and
13 adult family homes, and may include outpatient services provided as an
14 element in a package of services in a supported housing model.
15 Residential services for children in out-of-home placements related to
16 their mental disorder shall not include the costs of food and shelter,
17 except for children's long-term residential facilities existing prior
18 to January 1, 1991.

19 ~~((+15))~~ (19) "Research-based" means a program or practice that has
20 some research demonstrating effectiveness, but that does not yet meet
21 the standard of evidence-based practices.

22 (20) "Resilience" means the personal and community qualities that
23 enable individuals to rebound from adversity, trauma, tragedy, threats,
24 or other stresses, and to live productive lives.

25 (21) "Resource management services" mean the planning,
26 coordination, and authorization of residential services and community
27 support services administered pursuant to an individual service plan
28 for: (a) Acutely mentally ill adults and children; (b) chronically
29 mentally ill adults; (c) severely emotionally disturbed children; or
30 (d) seriously disturbed adults determined solely by a regional support
31 network to be at risk of becoming acutely or chronically mentally ill.
32 Such planning, coordination, and authorization shall include mental
33 health screening for children eligible under the federal Title XIX
34 early and periodic screening, diagnosis, and treatment program.
35 Resource management services include seven day a week, twenty-four hour
36 a day availability of information regarding mentally ill adults' and
37 children's enrollment in services and their individual service plan to

1 (~~county~~) designated mental health professionals, evaluation and
2 treatment facilities, and others as determined by the regional support
3 network.

4 (~~(16)~~) (22) "Secretary" means the secretary of social and health
5 services.

6 (~~(17)~~) (23) "Seriously disturbed person" means a person who:

7 (a) Is gravely disabled or presents a likelihood of serious harm to
8 himself or herself or others, or to the property of others, as a result
9 of a mental disorder as defined in chapter 71.05 RCW;

10 (b) Has been on conditional release status, or under a less
11 restrictive alternative order, at some time during the preceding two
12 years from an evaluation and treatment facility or a state mental
13 health hospital;

14 (c) Has a mental disorder which causes major impairment in several
15 areas of daily living;

16 (d) Exhibits suicidal preoccupation or attempts; or

17 (e) Is a child diagnosed by a mental health professional, as
18 defined in chapter 71.34 RCW, as experiencing a mental disorder which
19 is clearly interfering with the child's functioning in family or school
20 or with peers or is clearly interfering with the child's personality
21 development and learning.

22 (~~(18)~~) (24) "Severely emotionally disturbed child" means a child
23 who has been determined by the regional support network to be
24 experiencing a mental disorder as defined in chapter 71.34 RCW,
25 including those mental disorders that result in a behavioral or conduct
26 disorder, that is clearly interfering with the child's functioning in
27 family or school or with peers and who meets at least one of the
28 following criteria:

29 (a) Has undergone inpatient treatment or placement outside of the
30 home related to a mental disorder within the last two years;

31 (b) Has undergone involuntary treatment under chapter 71.34 RCW
32 within the last two years;

33 (c) Is currently served by at least one of the following child-
34 serving systems: Juvenile justice, child-protection/welfare, special
35 education, or developmental disabilities;

36 (d) Is at risk of escalating maladjustment due to:

37 (i) Chronic family dysfunction involving a mentally ill or
38 inadequate caretaker;

- 1 (ii) Changes in custodial adult;
- 2 (iii) Going to, residing in, or returning from any placement
- 3 outside of the home, for example, psychiatric hospital, short-term
- 4 inpatient, residential treatment, group or foster home, or a
- 5 correctional facility;
- 6 (iv) Subject to repeated physical abuse or neglect;
- 7 (v) Drug or alcohol abuse; or
- 8 (vi) Homelessness.

9 ~~((+19))~~ (25) "State minimum standards" means minimum requirements
10 established by rules adopted by the secretary and necessary to
11 implement this chapter for: (a) Delivery of mental health services;
12 (b) licensed service providers for the provision of mental health
13 services; (c) residential services; and (d) community support services
14 and resource management services.

15 ~~((+20))~~ (26) "Treatment records" include registration and all
16 other records concerning persons who are receiving or who at any time
17 have received services for mental illness, which are maintained by the
18 department, by regional support networks and their staffs, and by
19 treatment facilities. Treatment records do not include notes or
20 records maintained for personal use by a person providing treatment
21 services for the department, regional support networks, or a treatment
22 facility if the notes or records are not available to others.

23 (27) "Tribal authority," for the purposes of this section and RCW
24 71.24.300 only, means: The federally recognized Indian tribes and the
25 major Indian organizations recognized by the secretary insofar as these
26 organizations do not have a financial relationship with any regional
27 support network that would present a conflict of interest.

28 **Sec. 106.** RCW 10.77.010 and 2004 c 157 s 2 are each amended to
29 read as follows:

30 As used in this chapter:

31 (1) "Admission" means acceptance based on medical necessity, of a
32 person as a patient.

33 (2) "Commitment" means the determination by a court that a person
34 should be detained for a period of either evaluation or treatment, or
35 both, in an inpatient or a less-restrictive setting.

36 (3) "Conditional release" means modification of a court-ordered
37 commitment, which may be revoked upon violation of any of its terms.

1 (4) (~~"County designated mental health professional" has the same~~
2 ~~meaning as provided in RCW 71.05.020.~~

3 ~~(5)~~) A "criminally insane" person means any person who has been
4 acquitted of a crime charged by reason of insanity, and thereupon found
5 to be a substantial danger to other persons or to present a substantial
6 likelihood of committing criminal acts jeopardizing public safety or
7 security unless kept under further control by the court or other
8 persons or institutions.

9 ~~((6))~~ (5) "Department" means the state department of social and
10 health services.

11 (6) "Designated mental health professional" has the same meaning as
12 provided in RCW 71.05.020.

13 (7) "Detention" or "detain" means the lawful confinement of a
14 person, under the provisions of this chapter, pending evaluation.

15 (8) "Developmental disabilities professional" means a person who
16 has specialized training and three years of experience in directly
17 treating or working with persons with developmental disabilities and is
18 a psychiatrist or psychologist, or a social worker, and such other
19 developmental disabilities professionals as may be defined by rules
20 adopted by the secretary.

21 (9) "Developmental disability" means the condition as defined in
22 RCW 71A.10.020(3).

23 (10) "Discharge" means the termination of hospital medical
24 authority. The commitment may remain in place, be terminated, or be
25 amended by court order.

26 (11) "Furlough" means an authorized leave of absence for a resident
27 of a state institution operated by the department designated for the
28 custody, care, and treatment of the criminally insane, consistent with
29 an order of conditional release from the court under this chapter,
30 without any requirement that the resident be accompanied by, or be in
31 the custody of, any law enforcement or institutional staff, while on
32 such unescorted leave.

33 (12) "Habilitative services" means those services provided by
34 program personnel to assist persons in acquiring and maintaining life
35 skills and in raising their levels of physical, mental, social, and
36 vocational functioning. Habilitative services include education,
37 training for employment, and therapy. The habilitative process shall

1 be undertaken with recognition of the risk to the public safety
2 presented by the (~~individual~~) person being assisted as manifested by
3 prior charged criminal conduct.

4 (13) "History of one or more violent acts" means violent acts
5 committed during: (a) The ten-year period of time prior to the filing
6 of criminal charges; plus (b) the amount of time equal to time spent
7 during the ten-year period in a mental health facility or in
8 confinement as a result of a criminal conviction.

9 (14) "Incompetency" means a person lacks the capacity to understand
10 the nature of the proceedings against him or her or to assist in his or
11 her own defense as a result of mental disease or defect.

12 (15) "Indigent" means any person who is financially unable to
13 obtain counsel or other necessary expert or professional services
14 without causing substantial hardship to the person or his or her
15 family.

16 (16) "Individualized service plan" means a plan prepared by a
17 developmental disabilities professional with other professionals as a
18 team, for an individual with developmental disabilities, which shall
19 state:

20 (a) The nature of the person's specific problems, prior charged
21 criminal behavior, and habilitation needs;

22 (b) The conditions and strategies necessary to achieve the purposes
23 of habilitation;

24 (c) The intermediate and long-range goals of the habilitation
25 program, with a projected timetable for the attainment;

26 (d) The rationale for using this plan of habilitation to achieve
27 those intermediate and long-range goals;

28 (e) The staff responsible for carrying out the plan;

29 (f) Where relevant in light of past criminal behavior and due
30 consideration for public safety, the criteria for proposed movement to
31 less-restrictive settings, criteria for proposed eventual release, and
32 a projected possible date for release; and

33 (g) The type of residence immediately anticipated for the person
34 and possible future types of residences.

35 (17) "Professional person" means:

36 (a) A psychiatrist licensed as a physician and surgeon in this
37 state who has, in addition, completed three years of graduate training
38 in psychiatry in a program approved by the American medical association

1 or the American osteopathic association and is certified or eligible to
2 be certified by the American board of psychiatry and neurology or the
3 American osteopathic board of neurology and psychiatry;

4 (b) A psychologist licensed as a psychologist pursuant to chapter
5 18.83 RCW; or

6 (c) A social worker with a master's or further advanced degree from
7 an accredited school of social work or a degree deemed equivalent under
8 rules adopted by the secretary.

9 (18) "Registration records" include all the records of the
10 department, regional support networks, treatment facilities, and other
11 persons providing services to the department, county departments, or
12 facilities which identify persons who are receiving or who at any time
13 have received services for mental illness.

14 (19) "Release" means legal termination of the court-ordered
15 commitment under the provisions of this chapter.

16 ((+19+)) (20) "Secretary" means the secretary of the department of
17 social and health services or his or her designee.

18 ((+20+)) (21) "Treatment" means any currently standardized medical
19 or mental health procedure including medication.

20 ((+21+)) (22) "Treatment records" include registration and all
21 other records concerning persons who are receiving or who at any time
22 have received services for mental illness, which are maintained by the
23 department, by regional support networks and their staffs, and by
24 treatment facilities. Treatment records do not include notes or
25 records maintained for personal use by a person providing treatment
26 services for the department, regional support networks, or a treatment
27 facility if the notes or records are not available to others.

28 (23) "Violent act" means behavior that: (a)(i) Resulted in; (ii)
29 if completed as intended would have resulted in; or (iii) was
30 threatened to be carried out by a person who had the intent and
31 opportunity to carry out the threat and would have resulted in,
32 homicide, nonfatal injuries, or substantial damage to property; or (b)
33 recklessly creates an immediate risk of serious physical injury to
34 another person. As used in this subsection, "nonfatal injuries" means
35 physical pain or injury, illness, or an impairment of physical
36 condition. "Nonfatal injuries" shall be construed to be consistent
37 with the definition of "bodily injury," as defined in RCW 9A.04.110.

1 **Sec. 107.** RCW 71.05.360 and 1997 c 112 s 30 are each amended to
2 read as follows:

3 (1)(a) Every person involuntarily detained or committed under the
4 provisions of this chapter shall be entitled to all the rights set
5 forth in this chapter, which shall be prominently posted in the
6 facility, and shall retain all rights not denied him or her under this
7 chapter except as chapter 9.41 RCW may limit the right of a person to
8 purchase or possess a firearm or to qualify for a concealed pistol
9 license.

10 (b) No person shall be presumed incompetent as a consequence of
11 receiving an evaluation or voluntary or involuntary treatment for a
12 mental disorder, under this chapter or any prior laws of this state
13 dealing with mental illness. Competency shall not be determined or
14 withdrawn except under the provisions of chapter 10.97 or 11.88 RCW.

15 (c) Any person who leaves a public or private agency following
16 evaluation or treatment for mental disorder shall be given a written
17 statement setting forth the substance of this section.

18 (2) Each person involuntarily detained or committed pursuant to
19 this chapter shall have the right to adequate care and individualized
20 treatment.

21 (3) The provisions of this chapter shall not be construed to deny
22 to any person treatment by spiritual means through prayer in accordance
23 with the tenets and practices of a church or religious denomination.

24 (4) Persons receiving evaluation or treatment under this chapter
25 shall be given a reasonable choice of an available physician or other
26 professional person qualified to provide such services.

27 (5) Whenever any person is detained for evaluation and treatment
28 pursuant to this chapter, both the person and, if possible, a
29 responsible member of his or her immediate family, personal
30 representative, guardian, or conservator, if any, shall be advised as
31 soon as possible in writing or orally, by the officer or person taking
32 him or her into custody or by personnel of the evaluation and treatment
33 facility where the person is detained that unless the person is
34 released or voluntarily admits himself or herself for treatment within
35 seventy-two hours of the initial detention:

36 (a) A judicial hearing in a superior court, either by a judge or
37 court commissioner thereof, shall be held not more than seventy-two
38 hours after the initial detention to determine whether there is

1 probable cause to detain the person after the seventy-two hours have
2 expired for up to an additional fourteen days without further automatic
3 hearing for the reason that the person is a person whose mental
4 disorder presents a likelihood of serious harm or that the person is
5 gravely disabled;

6 (b) The person has a right to communicate immediately with an
7 attorney; has a right to have an attorney appointed to represent him or
8 her before and at the probable cause hearing if he or she is indigent;
9 and has the right to be told the name and address of the attorney that
10 the mental health professional has designated pursuant to this chapter;

11 (c) The person has the right to remain silent and that any
12 statement he or she makes may be used against him or her;

13 (d) The person has the right to present evidence and to cross-
14 examine witnesses who testify against him or her at the probable cause
15 hearing; and

16 (e) The person has the right to refuse psychiatric medications,
17 including antipsychotic medication beginning twenty-four hours prior to
18 the probable cause hearing.

19 (6) When proceedings are initiated under RCW 71.05.150 (2), (3), or
20 (4)(b), no later than twelve hours after such person is admitted to the
21 evaluation and treatment facility the personnel of the evaluation and
22 treatment facility or the designated mental health professional shall
23 serve on such person a copy of the petition for initial detention and
24 the name, business address, and phone number of the designated attorney
25 and shall forthwith commence service of a copy of the petition for
26 initial detention on the designated attorney.

27 (7) The judicial hearing described in subsection (5) of this
28 section is hereby authorized, and shall be held according to the
29 provisions of subsection (5) of this section and rules promulgated by
30 the supreme court.

31 (8) At the probable cause hearing the detained person shall have
32 the following rights in addition to the rights previously specified:

33 (a) To present evidence on his or her behalf;

34 (b) To cross-examine witnesses who testify against him or her;

35 (c) To be proceeded against by the rules of evidence;

36 (d) To remain silent;

37 (e) To view and copy all petitions and reports in the court file.

1 (9) The physician-patient privilege or the psychologist-client
2 privilege shall be deemed waived in proceedings under this chapter
3 relating to the administration of antipsychotic medications. As to
4 other proceedings under this chapter, the privileges shall be waived
5 when a court of competent jurisdiction in its discretion determines
6 that such waiver is necessary to protect either the detained person or
7 the public.

8 The waiver of a privilege under this section is limited to records
9 or testimony relevant to evaluation of the detained person for purposes
10 of a proceeding under this chapter. Upon motion by the detained person
11 or on its own motion, the court shall examine a record or testimony
12 sought by a petitioner to determine whether it is within the scope of
13 the waiver.

14 The record maker shall not be required to testify in order to
15 introduce medical or psychological records of the detained person so
16 long as the requirements of RCW 5.45.020 are met except that portions
17 of the record which contain opinions as to the detained person's mental
18 state must be deleted from such records unless the person making such
19 conclusions is available for cross-examination.

20 (10) Insofar as danger to the person or others is not created, each
21 person involuntarily detained, treated in a less restrictive
22 alternative course of treatment, or committed for treatment and
23 evaluation pursuant to this chapter shall have, in addition to other
24 rights not specifically withheld by law, the following rights:

25 (a) To wear his or her own clothes and to keep and use his or her
26 own personal possessions, except when deprivation of same is essential
27 to protect the safety of the resident or other persons;

28 (b) To keep and be allowed to spend a reasonable sum of his or her
29 own money for canteen expenses and small purchases;

30 (c) To have access to individual storage space for his or her
31 private use;

32 (d) To have visitors at reasonable times;

33 (e) To have reasonable access to a telephone, both to make and
34 receive confidential calls, consistent with an effective treatment
35 program;

36 (f) To have ready access to letter writing materials, including
37 stamps, and to send and receive uncensored correspondence through the
38 mails;

1 (g) To discuss treatment plans and decisions with professional
2 persons;

3 (h) Not to consent to the administration of antipsychotic
4 medications and not to thereafter be administered antipsychotic
5 medications unless ordered by a court under RCW 71.05.370 (as
6 recodified by this act) or pursuant to an administrative hearing under
7 RCW 71.05.215;

8 (i) Not to consent to the performance of electroconvulsant therapy
9 or surgery, except emergency life-saving surgery, unless ordered by a
10 court under RCW 71.05.370 (as recodified by this act);

11 (j) Not to have psychosurgery performed on him or her under any
12 circumstances;

13 (k) To dispose of property and sign contracts unless such person
14 has been adjudicated an incompetent in a court proceeding directed to
15 that particular issue.

16 (11) Every person involuntarily detained shall immediately be
17 informed of his or her right to a hearing to review the legality of his
18 or her detention and of his or her right to counsel, by the
19 professional person in charge of the facility providing evaluation and
20 treatment, or his or her designee, and, when appropriate, by the court.
21 If the person so elects, the court shall immediately appoint an
22 attorney to assist him or her.

23 (12) A person challenging his or her detention or his or her
24 attorney, shall have the right to designate and have the court appoint
25 a reasonably available independent physician or licensed mental health
26 professional to examine the person detained, the results of which
27 examination may be used in the proceeding. The person shall, if he or
28 she is financially able, bear the cost of such expert information,
29 otherwise such expert examination shall be at public expense.

30 (13) Nothing contained in this chapter shall prohibit the patient
31 from petitioning by writ of habeas corpus for release.

32 (14) Nothing in this chapter shall prohibit a person committed on
33 or prior to January 1, 1974, from exercising a right available to him
34 or her at or prior to January 1, 1974, for obtaining release from
35 confinement.

36 (15) Nothing in this section permits any person to knowingly
37 violate a no-contact order or a condition of an active judgment and

1 sentence or an active condition of supervision by the department of
2 corrections.

3 NEW SECTION. Sec. 108. RCW 71.05.370 is recodified as a new
4 section in chapter 71.05 RCW to be codified in proximity to RCW
5 71.05.215.

6 **Sec. 109.** RCW 71.05.390 and 2004 c 166 s 6, 2004 c 157 s 5, and
7 2004 c 33 s 2 are each reenacted and amended to read as follows:

8 Except as provided in this section, RCW 71.05.445, 71.05.630,
9 70.96A.150, or pursuant to a valid release under RCW 70.02.030, the
10 fact of admission and all information and records compiled, obtained,
11 or maintained in the course of providing services to either voluntary
12 or involuntary recipients of services at public or private agencies
13 shall be confidential.

14 Information and records may be disclosed only:

15 (1) In communications between qualified professional persons to
16 meet the requirements of this chapter, in the provision of services or
17 appropriate referrals, or in the course of guardianship proceedings.
18 The consent of the ((patient)) person, or his or her personal
19 representative or guardian, shall be obtained before information or
20 records may be disclosed by a professional person employed by a
21 facility unless provided to a professional person:

- 22 (a) Employed by the facility;
- 23 (b) Who has medical responsibility for the patient's care;
- 24 (c) Who is a ((county)) designated mental health professional;
- 25 (d) Who is providing services under chapter 71.24 RCW;
- 26 (e) Who is employed by a state or local correctional facility where
27 the person is confined or supervised; or
- 28 (f) Who is providing evaluation, treatment, or follow-up services
29 under chapter 10.77 RCW.

30 (2) When the communications regard the special needs of a patient
31 and the necessary circumstances giving rise to such needs and the
32 disclosure is made by a facility providing ((outpatient)) services to
33 the operator of a ((care)) facility in which the patient resides or
34 will reside.

35 (3)(a) When the person receiving services, or his or her guardian,

1 designates persons to whom information or records may be released, or
2 if the person is a minor, when his or her parents make such
3 designation.

4 (b) A public or private agency shall release to a person's next of
5 kin, attorney, personal representative, guardian, or conservator, if
6 any:

7 (i) The information that the person is presently a patient in the
8 facility or that the person is seriously physically ill;

9 (ii) A statement evaluating the mental and physical condition of
10 the patient, and a statement of the probable duration of the patient's
11 confinement, if such information is requested by the next of kin,
12 attorney, personal representative, guardian, or conservator; and

13 (iii) Such other information requested by the next of kin or
14 attorney as may be necessary to decide whether or not proceedings
15 should be instituted to appoint a guardian or conservator.

16 (4) To the extent necessary for a recipient to make a claim, or for
17 a claim to be made on behalf of a recipient for aid, insurance, or
18 medical assistance to which he or she may be entitled.

19 (5)(a) For either program evaluation or research, or both:
20 PROVIDED, That the secretary adopts rules for the conduct of the
21 evaluation or research, or both. Such rules shall include, but need
22 not be limited to, the requirement that all evaluators and researchers
23 must sign an oath of confidentiality substantially as follows:

24 "As a condition of conducting evaluation or research concerning
25 persons who have received services from (fill in the facility, agency,
26 or person) I,, agree not to divulge, publish, or
27 otherwise make known to unauthorized persons or the public any
28 information obtained in the course of such evaluation or research
29 regarding persons who have received services such that the person who
30 received such services is identifiable.

31 I recognize that unauthorized release of confidential information
32 may subject me to civil liability under the provisions of state law.

33 /s/

34 (b) Nothing in this chapter shall be construed to prohibit the

1 compilation and publication of statistical data for use by government
2 or researchers under standards, including standards to assure
3 maintenance of confidentiality, set forth by the secretary.

4 (6)(a) To the courts as necessary to the administration of this
5 chapter or to a court ordering an evaluation or treatment under chapter
6 10.77 RCW solely for the purpose of preventing the entry of any
7 evaluation or treatment order that is inconsistent with any order
8 entered under this chapter.

9 (b) To a court or its designee in which a motion under chapter
10 10.77 RCW has been made for involuntary medication of a defendant for
11 the purpose of competency restoration.

12 (c) Disclosure under this subsection is mandatory for the purpose
13 of the health insurance portability and accountability act.

14 (7)(a) When a mental health professional is requested by a
15 representative of a law enforcement or corrections agency, including a
16 police officer, sheriff, community corrections officer, a municipal
17 attorney, or prosecuting attorney to undertake an investigation under
18 RCW 71.05.150, the mental health professional shall, if requested to do
19 so, advise the representative in writing of the results of the
20 investigation including a statement of reasons for the decision to
21 detain or release the person investigated. Such written report shall
22 be submitted within seventy-two hours of the completion of the
23 investigation or the request from the law enforcement or corrections
24 representative, whichever occurs later.

25 (b) To law enforcement officers, public health officers, or
26 personnel of the department of corrections or the indeterminate
27 sentence review board for persons who are the subject of the records
28 and who are committed to the custody or supervision of the department
29 of corrections or indeterminate sentence review board which information
30 or records are necessary to carry out the responsibilities of their
31 office. Except for dissemination of information released pursuant to
32 RCW 71.05.425 and 4.24.550, regarding persons committed under this
33 chapter under RCW 71.05.280(3) and 71.05.320(2)(c) after dismissal of
34 a sex offense as defined in RCW 9.94A.030, the extent of information
35 that may be released is limited as follows:

36 ((+a)) (i) Only the fact, place, and date of involuntary
37 commitment, the fact and date of discharge or release, and the last
38 known address shall be disclosed upon request;

1 (~~(b)~~) (ii) The law enforcement and public health officers or
2 personnel of the department of corrections or indeterminate sentence
3 review board shall be obligated to keep such information confidential
4 in accordance with this chapter;

5 (~~(c)~~) (iii) Additional information shall be disclosed only after
6 giving notice to said person and his or her counsel and upon a showing
7 of clear, cogent, and convincing evidence that such information is
8 necessary and that appropriate safeguards for strict confidentiality
9 are and will be maintained. However, in the event the said person has
10 escaped from custody, said notice prior to disclosure is not necessary
11 and that the facility from which the person escaped shall include an
12 evaluation as to whether the person is of danger to persons or property
13 and has a propensity toward violence;

14 (~~(d)~~) (iv) Information and records shall be disclosed to the
15 department of corrections pursuant to and in compliance with the
16 provisions of RCW 71.05.445 for the purposes of completing presentence
17 investigations or risk assessment reports, supervision of an
18 incarcerated offender or offender under supervision in the community,
19 planning for and provision of supervision of an offender, or assessment
20 of an offender's risk to the community; and

21 (~~(e)~~) (v) Disclosure under this subsection is mandatory for the
22 purposes of the health insurance portability and accountability act.

23 (8) To the attorney of the detained person.

24 (9) To the prosecuting attorney as necessary to carry out the
25 responsibilities of the office under RCW 71.05.330(2) and
26 71.05.340(1)(b) and 71.05.335. The prosecutor shall be provided access
27 to records regarding the committed person's treatment and prognosis,
28 medication, behavior problems, and other records relevant to the issue
29 of whether treatment less restrictive than inpatient treatment is in
30 the best interest of the committed person or others. Information shall
31 be disclosed only after giving notice to the committed person and the
32 person's counsel.

33 (10) To appropriate law enforcement agencies and to a person, when
34 the identity of the person is known to the public or private agency,
35 whose health and safety has been threatened, or who is known to have
36 been repeatedly harassed, by the patient. The person may designate a
37 representative to receive the disclosure. The disclosure shall be made
38 by the professional person in charge of the public or private agency or

1 his or her designee and shall include the dates of commitment,
2 admission, discharge, or release, authorized or unauthorized absence
3 from the agency's facility, and only such other information that is
4 pertinent to the threat or harassment. The decision to disclose or not
5 shall not result in civil liability for the agency or its employees so
6 long as the decision was reached in good faith and without gross
7 negligence.

8 (11) To appropriate corrections and law enforcement agencies all
9 necessary and relevant information in the event of a crisis or emergent
10 situation that poses a significant and imminent risk to the public.
11 The decision to disclose or not shall not result in civil liability for
12 the mental health service provider or its employees so long as the
13 decision was reached in good faith and without gross negligence.

14 (12) To the persons designated in RCW 71.05.425 for the purposes
15 described in that section.

16 (13) Civil liability and immunity for the release of information
17 about a particular person who is committed to the department under RCW
18 71.05.280(3) and 71.05.320(2)(c) after dismissal of a sex offense as
19 defined in RCW 9.94A.030, is governed by RCW 4.24.550.

20 (14) (~~To a patient's next of kin, guardian, or conservator, if~~
21 ~~any, in the event of death, as provided in RCW 71.05.400.~~) Upon the
22 death of a person, his or her next of kin, personal representative,
23 guardian, or conservator, if any, shall be notified.

24 Next of kin who are of legal age and competent shall be notified
25 under this section in the following order: Spouse, parents, children,
26 brothers and sisters, and other relatives according to the degree of
27 relation. Access to all records and information compiled, obtained, or
28 maintained in the course of providing services to a deceased patient
29 shall be governed by RCW 70.02.140.

30 (15) To the department of health for the purposes of determining
31 compliance with state or federal licensure, certification, or
32 registration rules or laws. However, the information and records
33 obtained under this subsection are exempt from public inspection and
34 copying pursuant to chapter 42.17 RCW.

35 (16) To mark headstones or otherwise memorialize patients interred
36 at state hospital cemeteries. The department of social and health
37 services shall make available the name, date of birth, and date of

1 death of patients buried in state hospital cemeteries fifty years after
2 the death of a patient.

3 (17) When a patient would otherwise be subject to the provisions of
4 RCW 71.05.390 and disclosure is necessary for the protection of the
5 patient or others due to his or her unauthorized disappearance from the
6 facility, and his or her whereabouts is unknown, notice of such
7 disappearance, along with relevant information, may be made to
8 relatives, the department of corrections when the person is under the
9 supervision of the department, and governmental law enforcement
10 agencies designated by the physician in charge of the patient or the
11 professional person in charge of the facility, or his or her
12 professional designee.

13 Except as otherwise provided in this chapter, the uniform health
14 care information act, chapter 70.02 RCW, applies to all records and
15 information compiled, obtained, or maintained in the course of
16 providing services.

17 (18) The fact of admission, as well as all records, files,
18 evidence, findings, or orders made, prepared, collected, or maintained
19 pursuant to this chapter shall not be admissible as evidence in any
20 legal proceeding outside this chapter without the written consent of
21 the person who was the subject of the proceeding except in a subsequent
22 criminal prosecution of a person committed pursuant to RCW 71.05.280(3)
23 or 71.05.320(2)(c) on charges that were dismissed pursuant to chapter
24 10.77 RCW due to incompetency to stand trial ((~~or~~)), in a civil
25 commitment proceeding pursuant to chapter 71.09 RCW, or, in the case of
26 a minor, a guardianship or dependency proceeding. The records and
27 files maintained in any court proceeding pursuant to this chapter shall
28 be confidential and available subsequent to such proceedings only to
29 the person who was the subject of the proceeding or his or her
30 attorney. In addition, the court may order the subsequent release or
31 use of such records or files only upon good cause shown if the court
32 finds that appropriate safeguards for strict confidentiality are and
33 will be maintained.

34 **Sec. 110.** RCW 71.05.420 and 1990 c 3 s 113 are each amended to
35 read as follows:

36 Except as provided in RCW 71.05.425, when any disclosure of
37 information or records is made as authorized by RCW 71.05.390 ((~~through~~

1 71.05.410)), the physician in charge of the patient or the professional
2 person in charge of the facility shall promptly cause to be entered
3 into the patient's medical record the date and circumstances under
4 which said disclosure was made, the names and relationships to the
5 patient, if any, of the persons or agencies to whom such disclosure was
6 made, and the information disclosed.

7 **Sec. 111.** RCW 71.05.620 and 1989 c 205 s 12 are each amended to
8 read as follows:

9 ~~((1) Informed consent for disclosure of information from court or
10 treatment records to an individual, agency, or organization must be in
11 writing and must contain the following information:~~

12 ~~(a) The name of the individual, agency, or organization to which
13 the disclosure is to be made;~~

14 ~~(b) The name of the individual whose treatment record is being
15 disclosed;~~

16 ~~(c) The purpose or need for the disclosure;~~

17 ~~(d) The specific type of information to be disclosed;~~

18 ~~(e) The time period during which the consent is effective;~~

19 ~~(f) The date on which the consent is signed; and~~

20 ~~(g) The signature of the individual or person legally authorized to
21 give consent for the individual.~~

22 ~~(2))~~ The files and records of court proceedings under this chapter
23 and chapters ((71.05)) 70.96A, 71.34, and 70.-- (sections 202 through
24 216 of this act) RCW shall be closed but shall be accessible to any
25 ~~((individual))~~ person who is the subject of a petition and to the
26 ~~((individual's))~~ person's attorney, guardian ad litem, resource
27 management services, or service providers authorized to receive such
28 information by resource management services.

29 **Sec. 112.** RCW 71.05.630 and 2000 c 75 s 5 are each amended to read
30 as follows:

31 (1) Except as otherwise provided by law, all treatment records
32 shall remain confidential(~~((Treatment records))~~) and may be released
33 only to the persons designated in this section, or to other persons
34 designated in an informed written consent of the patient.

35 (2) Treatment records of ~~((an individual))~~ a person may be released
36 without informed written consent in the following circumstances:

1 (a) To (~~(an individual)~~) a person, organization, or agency as
2 necessary for management or financial audits, or program monitoring and
3 evaluation. Information obtained under this subsection shall remain
4 confidential and may not be used in a manner that discloses the name or
5 other identifying information about the (~~(individual)~~) person whose
6 records are being released.

7 (b) To the department, the director of regional support networks,
8 or a qualified staff member designated by the director only when
9 necessary to be used for billing or collection purposes. The
10 information shall remain confidential.

11 (c) For purposes of research as permitted in chapter 42.48 RCW.

12 (d) Pursuant to lawful order of a court.

13 (e) To qualified staff members of the department, to the director
14 of regional support networks, to resource management services
15 responsible for serving a patient, or to service providers designated
16 by resource management services as necessary to determine the progress
17 and adequacy of treatment and to determine whether the person should be
18 transferred to a less restrictive or more appropriate treatment
19 modality or facility. The information shall remain confidential.

20 (f) Within the treatment facility where the patient is receiving
21 treatment, confidential information may be disclosed to (~~(individuals)~~)
22 persons employed, serving in bona fide training programs, or
23 participating in supervised volunteer programs, at the facility when it
24 is necessary to perform their duties.

25 (g) Within the department as necessary to coordinate treatment for
26 mental illness, developmental disabilities, alcoholism, or drug abuse
27 of (~~(individuals)~~) persons who are under the supervision of the
28 department.

29 (h) To a licensed physician who has determined that the life or
30 health of the (~~(individual)~~) person is in danger and that treatment
31 without the information contained in the treatment records could be
32 injurious to the patient's health. Disclosure shall be limited to the
33 portions of the records necessary to meet the medical emergency.

34 (i) To a facility that is to receive (~~(an individual)~~) a person who
35 is involuntarily committed under chapter 71.05 RCW, or upon transfer of
36 the (~~(individual)~~) person from one treatment facility to another. The
37 release of records under this subsection shall be limited to the
38 treatment records required by law, a record or summary of all somatic

1 treatments, and a discharge summary. The discharge summary may include
2 a statement of the patient's problem, the treatment goals, the type of
3 treatment which has been provided, and recommendation for future
4 treatment, but may not include the patient's complete treatment record.

5 (j) Notwithstanding the provisions of RCW 71.05.390(7), to a
6 correctional facility or a corrections officer who is responsible for
7 the supervision of ((an individual)) a person who is receiving
8 inpatient or outpatient evaluation or treatment. Except as provided in
9 RCW 71.05.445 and 71.34.225, release of records under this section is
10 limited to:

11 (i) An evaluation report provided pursuant to a written supervision
12 plan.

13 (ii) The discharge summary, including a record or summary of all
14 somatic treatments, at the termination of any treatment provided as
15 part of the supervision plan.

16 (iii) When ((an individual)) a person is returned from a treatment
17 facility to a correctional facility, the information provided under
18 (j)(iv) of this subsection.

19 (iv) Any information necessary to establish or implement changes in
20 the ((individual's)) person's treatment plan or the level or kind of
21 supervision as determined by resource management services. In cases
22 involving a person transferred back to a correctional facility,
23 disclosure shall be made to clinical staff only.

24 (k) To the ((individual's)) person's counsel or guardian ad litem,
25 without modification, at any time in order to prepare for involuntary
26 commitment or recommitment proceedings, reexaminations, appeals, or
27 other actions relating to detention, admission, commitment, or
28 patient's rights under chapter 71.05 RCW.

29 (l) To staff members of the protection and advocacy agency or to
30 staff members of a private, nonprofit corporation for the purpose of
31 protecting and advocating the rights of persons with mental ((illness))
32 disorders or developmental disabilities. Resource management services
33 may limit the release of information to the name, birthdate, and county
34 of residence of the patient, information regarding whether the patient
35 was voluntarily admitted, or involuntarily committed, the date and
36 place of admission, placement, or commitment, the name and address of
37 a guardian of the patient, and the date and place of the guardian's
38 appointment. Any staff member who wishes to obtain additional

1 information shall notify the patient's resource management services in
2 writing of the request and of the resource management services' right
3 to object. The staff member shall send the notice by mail to the
4 guardian's address. If the guardian does not object in writing within
5 fifteen days after the notice is mailed, the staff member may obtain
6 the additional information. If the guardian objects in writing within
7 fifteen days after the notice is mailed, the staff member may not
8 obtain the additional information.

9 (3) Whenever federal law or federal regulations restrict the
10 release of information contained in the treatment records of any
11 patient who receives treatment for (~~alcoholism or drug~~) chemical
12 dependency, the department may restrict the release of the information
13 as necessary to comply with federal law and regulations.

14 **Sec. 113.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to
15 read as follows:

16 (1) Procedures shall be established by resource management services
17 to provide reasonable and timely access to individual treatment
18 records. However, access may not be denied at any time to records of
19 all medications and somatic treatments received by the (~~individual~~)
20 person.

21 (2) Following discharge, the (~~individual~~) person shall have a
22 right to a complete record of all medications and somatic treatments
23 prescribed during evaluation, admission, or commitment and to a copy of
24 the discharge summary prepared at the time of his or her discharge. A
25 reasonable and uniform charge for reproduction may be assessed.

26 (3) Treatment records may be modified prior to inspection to
27 protect the confidentiality of other patients or the names of any other
28 persons referred to in the record who gave information on the condition
29 that his or her identity remain confidential. Entire documents may not
30 be withheld to protect such confidentiality.

31 (4) At the time of discharge all (~~individuals~~) persons shall be
32 informed by resource management services of their rights as provided in
33 RCW (~~71.05.610~~) 71.05.390 and 71.05.620 through 71.05.690.

34 **Sec. 114.** RCW 71.05.660 and 1989 c 205 s 16 are each amended to
35 read as follows:

36 Nothing in this chapter (~~205, Laws of 1989~~) or chapter 70.96A,

1 71.05, 71.34, or 70.-- (sections 202 through 216 of this act) RCW shall
2 be construed to interfere with communications between physicians or
3 psychologists and patients and attorneys and clients.

4 NEW SECTION. Sec. 115. A new section is added to chapter 71.05
5 RCW to read as follows:

6 A petition for commitment under this chapter may be joined with a
7 petition for commitment under chapter 70.96A RCW.

8 **PART II**
9 **PILOT PROGRAMS**

10 NEW SECTION. Sec. 201. Sections 202 through 216 of this act
11 constitute a new chapter in Title 70 RCW.

12 NEW SECTION. Sec. 202. The definitions in this section apply
13 throughout this chapter unless the context clearly requires otherwise.

14 (1) "Admission" or "admit" means a decision by a physician that a
15 person should be examined or treated as a patient in a hospital, an
16 evaluation and treatment facility, or other inpatient facility, or a
17 decision by a professional person in charge or his or her designee that
18 a person should be detained as a patient for evaluation and treatment
19 in a secure detoxification facility or other certified chemical
20 dependency provider.

21 (2) "Antipsychotic medications" means that class of drugs primarily
22 used to treat serious manifestations of mental illness associated with
23 thought disorders, which includes but is not limited to atypical
24 antipsychotic medications.

25 (3) "Approved treatment program" means a discrete program of
26 chemical dependency treatment provided by a treatment program certified
27 by the department as meeting standards adopted under chapter 70.96A
28 RCW.

29 (4) "Attending staff" means any person on the staff of a public or
30 private agency having responsibility for the care and treatment of a
31 patient.

32 (5) "Chemical dependency" means:

- 33 (a) Alcoholism;
- 34 (b) Drug addiction; or

1 (c) Dependence on alcohol and one or more other psychoactive
2 chemicals, as the context requires.

3 (6) "Chemical dependency professional" means a person certified as
4 a chemical dependency professional by the department of health under
5 chapter 18.205 RCW.

6 (7) "Commitment" means the determination by a court that a person
7 should be detained for a period of either evaluation or treatment, or
8 both, in an inpatient or a less restrictive setting.

9 (8) "Conditional release" means a revocable modification of a
10 commitment that may be revoked upon violation of any of its terms.

11 (9) "Custody" means involuntary detention under either chapter
12 71.05 or 70.96A RCW or this chapter, uninterrupted by any period of
13 unconditional release from commitment from a facility providing
14 involuntary care and treatment.

15 (10) "Department" means the department of social and health
16 services.

17 (11) "Designated chemical dependency specialist" or "specialist"
18 means a person designated by the county alcoholism and other drug
19 addiction program coordinator designated under RCW 70.96A.310 to
20 perform the commitment duties described in RCW 70.96A.140 and this
21 chapter, and qualified to do so by meeting standards adopted by the
22 department.

23 (12) "Designated crisis responder" means a person designated by the
24 county or regional support network to perform the duties specified in
25 this chapter.

26 (13) "Designated mental health professional" means a mental health
27 professional designated by the county or other authority authorized in
28 rule to perform the duties specified in this chapter.

29 (14) "Detention" or "detain" means the lawful confinement of a
30 person under this chapter, or chapter 70.96A or 71.05 RCW.

31 (15) "Developmental disabilities professional" means a person who
32 has specialized training and three years of experience in directly
33 treating or working with individuals with developmental disabilities
34 and is a psychiatrist, psychologist, or social worker, and such other
35 developmental disabilities professionals as may be defined by rules
36 adopted by the secretary.

37 (16) "Developmental disability" means that condition defined in RCW
38 71A.10.020.

1 (17) "Discharge" means the termination of facility authority. The
2 commitment may remain in place, be terminated, or be amended by court
3 order.

4 (18) "Evaluation and treatment facility" means any facility that
5 can provide directly, or by direct arrangement with other public or
6 private agencies, emergency evaluation and treatment, outpatient care,
7 and timely and appropriate inpatient care to persons suffering from a
8 mental disorder, and that is certified as such by the department. A
9 physically separate and separately operated portion of a state hospital
10 may be designated as an evaluation and treatment facility. A facility
11 that is part of, or operated by, the department or any federal agency
12 does not require certification. No correctional institution or
13 facility, or jail, may be an evaluation and treatment facility within
14 the meaning of this chapter.

15 (19) "Facility" means either an evaluation and treatment facility
16 or a secure detoxification facility.

17 (20) "Gravely disabled" means a condition in which a person, as a
18 result of a mental disorder, or as a result of the use of alcohol or
19 other psychoactive chemicals:

20 (a) Is in danger of serious physical harm resulting from a failure
21 to provide for his or her essential human needs of health or safety; or

22 (b) Manifests severe deterioration in routine functioning evidenced
23 by repeated and escalating loss of cognitive or volitional control over
24 his or her actions and is not receiving such care as is essential for
25 his or her health or safety.

26 (21) "History of one or more violent acts" refers to the period of
27 time ten years before the filing of a petition under this chapter, or
28 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
29 violent acts committed, in a mental health facility or a long-term
30 alcoholism or drug treatment facility, or in confinement as a result of
31 a criminal conviction.

32 (22) "Intoxicated person" means a person whose mental or physical
33 functioning is substantially impaired as a result of the use of alcohol
34 or other psychoactive chemicals.

35 (23) "Judicial commitment" means a commitment by a court under this
36 chapter.

37 (24) "Licensed physician" means a person licensed to practice

1 medicine or osteopathic medicine and surgery in the state of
2 Washington.

3 (25) "Likelihood of serious harm" means:

4 (a) A substantial risk that:

5 (i) Physical harm will be inflicted by a person upon his or her own
6 person, as evidenced by threats or attempts to commit suicide or
7 inflict physical harm on oneself;

8 (ii) Physical harm will be inflicted by a person upon another, as
9 evidenced by behavior that has caused such harm or that places another
10 person or persons in reasonable fear of sustaining such harm; or

11 (iii) Physical harm will be inflicted by a person upon the property
12 of others, as evidenced by behavior that has caused substantial loss or
13 damage to the property of others; or

14 (b) The person has threatened the physical safety of another and
15 has a history of one or more violent acts.

16 (26) "Mental disorder" means any organic, mental, or emotional
17 impairment that has substantial adverse effects on a person's cognitive
18 or volitional functions.

19 (27) "Mental health professional" means a psychiatrist,
20 psychologist, psychiatric nurse, or social worker, and such other
21 mental health professionals as may be defined by rules adopted by the
22 secretary under the authority of chapter 71.05 RCW.

23 (28) "Peace officer" means a law enforcement official of a public
24 agency or governmental unit, and includes persons specifically given
25 peace officer powers by any state law, local ordinance, or judicial
26 order of appointment.

27 (29) "Person in charge" means a physician or chemical dependency
28 counselor as defined in rule by the department, who is empowered by a
29 certified treatment program with authority to make assessment,
30 admission, continuing care, and discharge decisions on behalf of the
31 certified program.

32 (30) "Private agency" means any person, partnership, corporation,
33 or association that is not a public agency, whether or not financed in
34 whole or in part by public funds, that constitutes an evaluation and
35 treatment facility or private institution, or hospital, or approved
36 treatment program, that is conducted for, or includes a department or
37 ward conducted for, the care and treatment of persons who are mentally
38 ill and/or chemically dependent.

1 (31) "Professional person" means a mental health professional or
2 chemical dependency professional and shall also mean a physician,
3 registered nurse, and such others as may be defined by rules adopted by
4 the secretary pursuant to the provisions of this chapter.

5 (32) "Psychiatrist" means a person having a license as a physician
6 and surgeon in this state who has in addition completed three years of
7 graduate training in psychiatry in a program approved by the American
8 medical association or the American osteopathic association and is
9 certified or eligible to be certified by the American board of
10 psychiatry and neurology.

11 (33) "Psychologist" means a person who has been licensed as a
12 psychologist under chapter 18.83 RCW.

13 (34) "Public agency" means any evaluation and treatment facility or
14 institution, or hospital, or approved treatment program that is
15 conducted for, or includes a department or ward conducted for, the care
16 and treatment of persons who are mentally ill and/or chemically
17 dependent, if the agency is operated directly by federal, state,
18 county, or municipal government, or a combination of such governments.

19 (35) "Registration records" means all the records of the
20 department, regional support networks, treatment facilities, and other
21 persons providing services to the department, county departments, or
22 facilities which identify persons who are receiving or who at any time
23 have received services for mental illness.

24 (36) "Release" means legal termination of the commitment under
25 chapter 70.96A or 71.05 RCW or this chapter.

26 (37) "Secretary" means the secretary of the department or the
27 secretary's designee.

28 (38) "Secure detoxification facility" means a facility operated by
29 either a public or private agency or by the program of an agency that
30 serves the purpose of providing evaluation and assessment, and acute
31 and/or subacute detoxification services for intoxicated persons and
32 includes security measures sufficient to protect the patients, staff,
33 and community.

34 (39) "Social worker" means a person with a master's or further
35 advanced degree from an accredited school of social work or a degree
36 deemed equivalent under rules adopted by the secretary.

37 (40) "Treatment records" means registration records and all other
38 records concerning persons who are receiving or who at any time have

1 received services for mental illness, which are maintained by the
2 department, by regional support networks and their staffs, and by
3 treatment facilities. Treatment records do not include notes or
4 records maintained for personal use by a person providing treatment
5 services for the department, regional support networks, or a treatment
6 facility if the notes or records are not available to others.

7 (41) "Violent act" means behavior that resulted in homicide,
8 attempted suicide, nonfatal injuries, or substantial damage to
9 property.

10 NEW SECTION. **Sec. 203.** (1) The secretary, after consulting with
11 the Washington state association of counties, shall select and contract
12 with regional support networks or counties to provide two integrated
13 crisis response and involuntary treatment pilot programs for adults and
14 shall allocate resources for both integrated services and secure
15 detoxification services in the pilot areas. In selecting the two
16 regional support networks or counties, the secretary shall endeavor to
17 site one in an urban and one in a rural regional support network or
18 county; and to site them in counties other than those selected pursuant
19 to section 220 of this act, to the extent necessary to facilitate
20 evaluation of pilot project results.

21 (2) The regional support networks or counties shall implement the
22 pilot programs by providing integrated crisis response and involuntary
23 treatment to persons with a chemical dependency, a mental disorder, or
24 both, consistent with this chapter. The pilot programs shall:

25 (a) Combine the crisis responder functions of a designated mental
26 health professional under chapter 71.05 RCW and a designated chemical
27 dependency specialist under chapter 70.96A RCW by establishing a new
28 designated crisis responder who is authorized to conduct investigations
29 and detain persons up to seventy-two hours to the proper facility;

30 (b) Provide training to the crisis responders as required by the
31 department;

32 (c) Provide sufficient staff and resources to ensure availability
33 of an adequate number of crisis responders twenty-four hours a day,
34 seven days a week;

35 (d) Provide the administrative and court-related staff, resources,
36 and processes necessary to facilitate the legal requirements of the

1 initial detention and the commitment hearings for persons with a
2 chemical dependency;

3 (e) Participate in the evaluation and report to assess the outcomes
4 of the pilot programs including providing data and information as
5 requested;

6 (f) Provide the other services necessary to the implementation of
7 the pilot programs, consistent with this chapter as determined by the
8 secretary in contract; and

9 (g) Collaborate with the department of corrections where persons
10 detained or committed are also subject to supervision by the department
11 of corrections.

12 (3) The pilot programs established by this section shall begin
13 providing services by March 1, 2006.

14 NEW SECTION. **Sec. 204.** To qualify as a designated crisis
15 responder, a person must have received chemical dependency training as
16 determined by the department and be a:

17 (1) Psychiatrist, psychologist, psychiatric nurse, or social
18 worker;

19 (2) Person with a master's degree or further advanced degree in
20 counseling or one of the social sciences from an accredited college or
21 university and who have, in addition, at least two years of experience
22 in direct treatment of persons with mental illness or emotional
23 disturbance, such experience gained under the direction of a mental
24 health professional;

25 (3) Person who meets the waiver criteria of RCW 71.24.260, which
26 waiver was granted before 1986;

27 (4) Person who had an approved waiver to perform the duties of a
28 mental health professional that was requested by the regional support
29 network and granted by the department before July 1, 2001; or

30 (5) Person who has been granted a time-limited exception of the
31 minimum requirements of a mental health professional by the department
32 consistent with rules adopted by the secretary.

33 NEW SECTION. **Sec. 205.** In addition to the provisions of this
34 chapter, a designated crisis responder has all the powers and duties of
35 a designated mental health professional as well as the powers and

1 duties of a designated chemical dependency specialist under RCW
2 70.96A.120.

3 NEW SECTION. **Sec. 206.** (1)(a) When a designated crisis responder
4 receives information alleging that a person, as a result of a mental
5 disorder, chemical dependency disorder, or both, presents a likelihood
6 of serious harm or is gravely disabled, the designated crisis responder
7 may, after investigation and evaluation of the specific facts alleged
8 and of the reliability and credibility of any person providing
9 information to initiate detention, if satisfied that the allegations
10 are true and that the person will not voluntarily seek appropriate
11 treatment, file a petition for initial detention. Before filing the
12 petition, the designated crisis responder must personally interview the
13 person, unless the person refuses an interview, and determine whether
14 the person will voluntarily receive appropriate evaluation and
15 treatment at either an evaluation and treatment facility, a
16 detoxification facility, or other certified chemical dependency
17 provider.

18 (b)(i)(A) Whenever it appears, by petition for initial detention,
19 to the satisfaction of a judge of the superior court that a person
20 presents as a result of a mental disorder, a likelihood of serious
21 harm, or is gravely disabled, and that the person has refused or failed
22 to accept appropriate evaluation and treatment voluntarily, the judge
23 may issue an order requiring the person to appear within twenty-four
24 hours after service of the order at a designated evaluation and
25 treatment facility for not more than a seventy-two hour evaluation and
26 treatment period; or

27 (B) Whenever it appears, by petition for initial detention, to the
28 satisfaction of a judge of the superior court, district court, or other
29 court permitted by court rule, that a person presents as a result of a
30 chemical dependency, a likelihood of serious harm, or is gravely
31 disabled, and that the person has refused or failed to accept
32 appropriate evaluation and treatment voluntarily, the judge may issue
33 an order requiring the person to appear within twenty-four hours after
34 service of the order at a secure detoxification facility or other
35 certified chemical dependency provider for not more than a seventy-two
36 hour evaluation and treatment period.

1 (ii) The order issued under this subsection (1)(b) shall state the
2 address of the evaluation and treatment facility, secure detoxification
3 facility, or other certified chemical dependency provider to which the
4 person is to report; whether the required seventy-two hour evaluation
5 and treatment services may be delivered on an outpatient or inpatient
6 basis; and that if the person named in the order fails to appear at the
7 evaluation and treatment facility, secure detoxification facility, or
8 other certified chemical dependency provider at or before the date and
9 time stated in the order, the person may be involuntarily taken into
10 custody for evaluation and treatment. The order shall also designate
11 retained counsel or, if counsel is appointed from a list provided by
12 the court, the name, business address, and telephone number of the
13 attorney appointed to represent the person.

14 (c) The designated crisis responder shall then serve or cause to be
15 served on such person, his or her guardian, and conservator, if any, a
16 copy of the order to appear, together with a notice of rights and a
17 petition for initial detention. After service on the person, the
18 designated crisis responder shall file the return of service in court
19 and provide copies of all papers in the court file to the evaluation
20 and treatment facility or secure detoxification facility and the
21 designated attorney. The designated crisis responder shall notify the
22 court and the prosecuting attorney that a probable cause hearing will
23 be held within seventy-two hours of the date and time of outpatient
24 evaluation or admission to the evaluation and treatment facility,
25 secure detoxification facility, or other certified chemical dependency
26 provider. The person shall be permitted to remain in his or her home
27 or other place of his or her choosing before the time of evaluation and
28 shall be permitted to be accompanied by one or more of his or her
29 relatives, friends, an attorney, a personal physician, or other
30 professional or religious advisor to the place of evaluation. An
31 attorney accompanying the person to the place of evaluation shall be
32 permitted to be present during the admission evaluation. Any other
33 person accompanying the person may be present during the admission
34 evaluation. The facility may exclude the person if his or her presence
35 would present a safety risk, delay the proceedings, or otherwise
36 interfere with the evaluation.

37 (d) If the person ordered to appear does appear on or before the
38 date and time specified, the evaluation and treatment facility, secure

1 detoxification facility, or other certified chemical dependency
2 provider may admit the person as required by subsection (3) of this
3 section or may provide treatment on an outpatient basis. If the person
4 ordered to appear fails to appear on or before the date and time
5 specified, the evaluation and treatment facility, secure detoxification
6 facility, or other certified chemical dependency provider shall
7 immediately notify the designated crisis responder who may notify a
8 peace officer to take the person or cause the person to be taken into
9 custody and placed in an evaluation and treatment facility, a secure
10 detoxification facility, or other certified chemical dependency
11 provider. Should the designated crisis responder notify a peace
12 officer authorizing the officer to take a person into custody under
13 this subsection, the designated crisis responder shall file with the
14 court a copy of the authorization and a notice of detention. At the
15 time the person is taken into custody there shall commence to be served
16 on the person, his or her guardian, and conservator, if any, a copy of
17 the original order together with a notice of detention, a notice of
18 rights, and a petition for initial detention.

19 (2) If a designated crisis responder receives information alleging
20 that a person, as the result of:

21 (a) A mental disorder, presents an imminent likelihood of serious
22 harm, or is in imminent danger because of being gravely disabled, after
23 investigation and evaluation of the specific facts alleged and of the
24 reliability and credibility of the person or persons providing the
25 information if any, the designated crisis responder may take the
26 person, or cause by oral or written order the person to be taken into
27 emergency custody in an evaluation and treatment facility for not more
28 than seventy-two hours as described in this chapter; or

29 (b) Chemical dependency, presents an imminent likelihood of serious
30 harm, or is in imminent danger because of being gravely disabled, after
31 investigation and evaluation of the specific facts alleged and of the
32 reliability and credibility of the person or persons providing the
33 information if any, the designated crisis responder may take the
34 person, or cause by oral or written order the person to be taken into
35 emergency custody in a secure detoxification facility for not more than
36 seventy-two hours as described in this chapter.

37 (3) If the designated crisis responder petitions for detention of
38 a person whose actions constitute a likelihood of serious harm, or who

1 is gravely disabled, the evaluation and treatment facility, the secure
2 detoxification facility, or other certified chemical dependency
3 provider providing seventy-two hour evaluation and treatment must
4 immediately accept on a provisional basis the petition and the person.
5 The evaluation and treatment facility, the secure detoxification
6 facility, or other certified chemical dependency provider shall then
7 evaluate the person's condition and admit, detain, transfer, or
8 discharge such person in accordance with this chapter. The facility
9 shall notify in writing the court and the designated crisis responder
10 of the date and time of the initial detention of each person
11 involuntarily detained so that a probable cause hearing will be held no
12 later than seventy-two hours after detention.

13 (4) A peace officer may, without prior notice of the proceedings
14 provided for in subsection (1) of this section, take or cause the
15 person to be taken into custody and immediately delivered to an
16 evaluation and treatment facility, secure detoxification facility,
17 other certified chemical dependency treatment provider only pursuant to
18 subsections (1)(d) and (2) of this section.

19 (5) Nothing in this chapter limits the power of a peace officer to
20 take a person into custody and immediately deliver the person to the
21 emergency department of a local hospital or to a detoxification
22 facility.

23 NEW SECTION. **Sec. 207.** (1) A person or public or private entity
24 employing a person is not civilly or criminally liable for performing
25 duties under this chapter if the duties were performed in good faith
26 and without gross negligence.

27 (2) This section does not relieve a person from giving the required
28 notices under RCW 71.05.330(2) or 71.05.340(1)(b), or the duty to warn
29 or to take reasonable precautions to provide protection from violent
30 behavior where the patient has communicated an actual threat of
31 physical violence against a reasonably identifiable victim or victims.
32 The duty to warn or to take reasonable precautions to provide
33 protection from violent behavior is discharged if reasonable efforts
34 are made to communicate the threat to the victim or victims and to law
35 enforcement personnel.

1 NEW SECTION. **Sec. 208.** If the evaluation and treatment facility,
2 secure detoxification facility, or other certified chemical dependency
3 provider admits the person, it may detain the person for evaluation and
4 treatment for a period not to exceed seventy-two hours from the time of
5 acceptance. The computation of the seventy-two hour period excludes
6 Saturdays, Sundays, and holidays.

7 NEW SECTION. **Sec. 209.** Whenever any person is detained for
8 evaluation and treatment for a mental disorder under section 206 of
9 this act, chapter 71.05 RCW applies.

10 NEW SECTION. **Sec. 210.** (1) A person detained for seventy-two hour
11 evaluation and treatment under section 206 of this act or RCW
12 70.96A.120 may be detained for not more than fourteen additional days
13 of involuntary chemical dependency treatment if there are beds
14 available at the secure detoxification facility and the following
15 conditions are met:

16 (a) The professional person in charge of the agency or facility or
17 the person's designee providing evaluation and treatment services in a
18 secure detoxification facility has assessed the person's condition and
19 finds that the condition is caused by chemical dependency and either
20 results in a likelihood of serious harm or in the detained person being
21 gravely disabled, and the professional person or his or her designee is
22 prepared to testify those conditions are met;

23 (b) The person has been advised of the need for voluntary treatment
24 and the professional person in charge of the agency or facility or his
25 or her designee has evidence that he or she has not in good faith
26 volunteered for treatment; and

27 (c) The professional person in charge of the agency or facility or
28 the person's designee has filed a petition for fourteen-day involuntary
29 detention with the superior court, district court, or other court
30 permitted by court rule. The petition must be signed by the chemical
31 dependency professional who has examined the person.

32 (2) The petition under subsection (1)(c) of this section shall be
33 accompanied by a certificate of a licensed physician who has examined
34 the person, unless the person whose commitment is sought has refused to
35 submit to a medical examination, in which case the fact of refusal
36 shall be alleged in the petition. The certificate shall set forth the

1 licensed physician's findings in support of the allegations of the
2 petition. A physician employed by the petitioning program or the
3 department is eligible to be the certifying physician.

4 (3) The petition shall state facts that support the finding that
5 the person, as a result of chemical dependency, presents a likelihood
6 of serious harm or is gravely disabled, and that there are no less
7 restrictive alternatives to detention in the best interest of the
8 person or others. The petition shall state specifically that less
9 restrictive alternative treatment was considered and specify why
10 treatment less restrictive than detention is not appropriate.

11 (4) A copy of the petition shall be served on the detained person,
12 his or her attorney, and his or her guardian or conservator, if any,
13 before the probable cause hearing.

14 (5)(a) The court shall inform the person whose commitment is sought
15 of his or her right to contest the petition, be represented by counsel
16 at every stage of any proceedings relating to his or her commitment,
17 and have counsel appointed by the court or provided by the court, if he
18 or she wants the assistance of counsel and is unable to obtain counsel.
19 If the court believes that the person needs the assistance of counsel,
20 the court shall require, by appointment if necessary, counsel for him
21 or her regardless of his or her wishes. The person shall, if he or she
22 is financially able, bear the costs of such legal service; otherwise
23 such legal service shall be at public expense. The person whose
24 commitment is sought shall be informed of his or her right to be
25 examined by a licensed physician of his or her choice. If the person
26 is unable to obtain a licensed physician and requests examination by a
27 physician, the court shall appoint a reasonably available licensed
28 physician designated by the person.

29 (b) At the conclusion of the probable cause hearing, if the court
30 finds by a preponderance of the evidence that the person, as the result
31 of chemical dependency, presents a likelihood of serious harm or is
32 gravely disabled and, after considering less restrictive alternatives
33 to involuntary detention and treatment, finds that no such alternatives
34 are in the best interest of such person or others, the court shall
35 order that the person be detained for involuntary chemical dependency
36 treatment not to exceed fourteen days in a secure detoxification
37 facility.

1 safety, or the designated crisis responder detains a person under this
2 chapter, the designated crisis responder shall notify the person's
3 treatment provider and the department of corrections.

4 (4) When an offender who is confined in a state correctional
5 facility or is under supervision of the department of corrections in
6 the community is subject to a petition for involuntary treatment under
7 this chapter, the petitioner shall notify the department of corrections
8 and the department of corrections shall provide documentation of its
9 risk assessment or other concerns to the petitioner and the court if
10 the department of corrections classified the offender as a high risk or
11 high needs offender.

12 (5) Nothing in this section creates a duty on any treatment
13 provider or designated crisis responder to provide offender
14 supervision.

15 NEW SECTION. **Sec. 215.** The secretary may adopt rules to implement
16 this chapter.

17 NEW SECTION. **Sec. 216.** The provisions of RCW 71.05.550 apply to
18 this chapter.

19 NEW SECTION. **Sec. 217.** (1) The Washington state institute for
20 public policy shall evaluate the pilot programs and make a preliminary
21 report to appropriate committees of the legislature by December 1,
22 2007, and a final report by September 30, 2008.

23 (2) The evaluation of the pilot programs shall include:

24 (a) Whether the designated crisis responder pilot program:

25 (i) Has increased efficiency of evaluation and treatment of persons
26 involuntarily detained for seventy-two hours;

27 (ii) Is cost-effective;

28 (iii) Results in better outcomes for persons involuntarily
29 detained;

30 (iv) Increased the effectiveness of the crisis response system in
31 the pilot catchment areas;

32 (b) The effectiveness of providing a single chapter in the Revised
33 Code of Washington to address initial detention of persons with mental
34 disorders or chemical dependency, in crisis response situations and the

1 likelihood of effectiveness of providing a single, comprehensive
2 involuntary treatment act.

3 (3) The reports shall consider the impact of the pilot programs on
4 the existing mental health system and on the persons served by the
5 system.

6 **Sec. 218.** RCW 71.05.550 and 1973 1st ex.s. c 142 s 60 are each
7 amended to read as follows:

8 The department of social and health services, in planning and
9 providing funding to counties pursuant to chapter 71.24 RCW, shall
10 recognize the financial necessities imposed upon counties by
11 implementation of this chapter and chapter 70.-- RCW (sections 202
12 through 216 of this act), and shall consider needs, if any, for
13 additional community mental health services and facilities and
14 reduction in commitments to state hospitals for the mentally ill
15 accomplished by individual counties, in planning and providing such
16 funding. The state shall provide financial assistance to the counties
17 to enable the counties to meet all increased costs, if any, to the
18 counties resulting from their administration of the provisions of
19 chapter 142, Laws of 1973 1st ex. sess.

20 NEW SECTION. **Sec. 219.** Sections 202 through 216 of this act
21 expire July 1, 2008.

22 NEW SECTION. **Sec. 220.** A new section is added to chapter 70.96A
23 RCW to read as follows:

24 (1) The secretary shall select and contract with counties to
25 provide intensive case management for chemically dependent persons with
26 histories of high utilization of crisis services at two sites. In
27 selecting the two sites, the secretary shall endeavor to site one in an
28 urban county, and one in a rural county; and to site them in counties
29 other than those selected pursuant to section 203 of this act, to the
30 extent necessary to facilitate evaluation of pilot project results.

31 (2) The contracted sites shall implement the pilot programs by
32 providing intensive case management to persons with a primary chemical
33 dependency diagnosis or dual primary chemical dependency and mental
34 health diagnoses, through the employment of chemical dependency case
35 managers. The chemical dependency case managers shall:

1 (a) Be trained in and use the integrated, comprehensive screening
2 and assessment process adopted under section 601 of this act;

3 (b) Reduce the use of crisis medical, chemical dependency and
4 mental health services, including but not limited to, emergency room
5 admissions, hospitalizations, detoxification programs, inpatient
6 psychiatric admissions, involuntary treatment petitions, emergency
7 medical services, and ambulance services;

8 (c) Reduce the use of emergency first responder services including
9 police, fire, emergency medical, and ambulance services;

10 (d) Reduce the number of criminal justice interventions including
11 arrests, violations of conditions of supervision, bookings, jail days,
12 prison sanction day for violations, court appearances, and prosecutor
13 and defense costs;

14 (e) Where appropriate and available, work with therapeutic courts
15 including drug courts and mental health courts to maximize the outcomes
16 for the individual and reduce the likelihood of reoffense;

17 (f) Coordinate with local offices of the economic services
18 administration to assist the person in accessing and remaining enrolled
19 in those programs to which the person may be entitled;

20 (g) Where appropriate and available, coordinate with primary care
21 and other programs operated through the federal government including
22 federally qualified health centers, Indian health programs, and
23 veterans' health programs for which the person is eligible to reduce
24 duplication of services and conflicts in case approach;

25 (h) Where appropriate, advocate for the client's needs to assist
26 the person in achieving and maintaining stability and progress toward
27 recovery;

28 (i) Document the numbers of persons with co-occurring mental and
29 substance abuse disorders and the point of determination of the co-
30 occurring disorder by quadrant of intensity of need; and

31 (j) Where a program participant is under supervision by the
32 department of corrections, collaborate with the department of
33 corrections to maximize treatment outcomes and reduce the likelihood of
34 reoffense.

35 (3) The pilot programs established by this section shall begin
36 providing services by March 1, 2006.

37 (4) This section expires June 30, 2008.

PART III
TREATMENT GAP

1
2
3 NEW SECTION. **Sec. 301.** A new section is added to chapter 70.96A
4 RCW to read as follows:

5 (1) The division of alcohol and substance abuse shall increase its
6 capacity to serve adults who meet chemical dependency treatment
7 criteria and who are enrolled in medicaid as follows:

8 (a) In fiscal year 2006, the division of alcohol and substance
9 abuse shall serve forty percent of the calculated need; and

10 (b) In fiscal year 2007, the division of alcohol and substance
11 abuse shall serve sixty percent of the calculated need.

12 (2) The division of alcohol and substance abuse shall increase its
13 capacity to serve minors who have passed their twelfth birthday and who
14 are not yet eighteen, who are under two hundred percent of the federal
15 poverty level as follows:

16 (a) In fiscal year 2006, the division of alcohol and substance
17 abuse shall serve forty percent of the calculated need; and

18 (b) In fiscal year 2007, the division of alcohol and substance
19 abuse shall serve sixty percent of the calculated need.

20 (3) For purposes of this section, "calculated need" means the
21 percentage of the population under two hundred percent of the federal
22 poverty level in need of chemical dependency services as determined in
23 the 2003 Washington state needs assessment study.

24 NEW SECTION. **Sec. 302.** A new section is added to chapter 70.96A
25 RCW to read as follows:

26 (1) Not later than January 1, 2007, all persons providing treatment
27 under this chapter shall also implement the integrated comprehensive
28 screening and assessment process for chemical dependency and mental
29 disorders adopted pursuant to section 601 of this act and shall
30 document the numbers of clients with co-occurring mental and substance
31 abuse disorders based on a quadrant system of low and high needs.

32 (2) Treatment providers contracted to provide treatment under this
33 chapter who fail to implement the integrated comprehensive screening
34 and assessment process for chemical dependency and mental disorders by
35 July 1, 2007, are subject to contractual penalties established under
36 section 601 of this act.

1 ****NEW SECTION. Sec. 402.** The legislature finds that there are
2 persons with mental disorders, including organic or traumatic brain
3 disorders, and combinations of mental disorders with other medical
4 conditions or behavior histories that result in behavioral and security
5 issues that make these persons ineligible for, or unsuccessful in,
6 existing types of licensed facilities, including adult residential
7 rehabilitation centers, boarding homes, adult family homes, group
8 homes, and skilled nursing facilities. The legislature also finds that
9 many of these persons have been treated on repeated occasions in
10 inappropriate acute care facilities and released without an appropriate
11 placement or have been treated or detained for extended periods in
12 inappropriate settings including state hospitals and correctional
13 facilities. The legislature further finds that some of these persons
14 present complex safety and treatment issues that require security
15 measures that cannot be instituted under most facility licenses or
16 supported housing programs. These include the ability to detain
17 persons under involuntary treatment orders or administer court ordered
18 medications.*

19 *Consequently, the legislature intends, to the extent of available
20 funds, to establish a new type of facility licensed by the department
21 of social and health services as an enhanced services facility with
22 standards that will provide a safe, secure treatment environment for a
23 limited population of persons who are not appropriately served in other
24 facilities or programs. The legislature also finds that enhanced
25 services facilities may need to specialize in order to effectively care
26 for a particular segment of the identified population.*

27 *An enhanced services facility may only serve individuals that meet
28 the criteria specified in section 405 of this act.*

**Sec. 402 was vetoed. See message at end of chapter.*

29 NEW SECTION. **Sec. 403.** The definitions in this section apply
30 throughout this chapter unless the context clearly requires otherwise.

31 (1) "Antipsychotic medications" means that class of drugs primarily
32 used to treat serious manifestations of mental illness associated with
33 thought disorders, which includes but is not limited to atypical
34 antipsychotic medications.

35 (2) "Attending staff" means any person on the staff of a public or
36 private agency having responsibility for the care and treatment of a
37 patient.

1 (3) "Chemical dependency" means alcoholism, drug addiction, or
2 dependence on alcohol and one or more other psychoactive chemicals, as
3 the context requires and as those terms are defined in chapter 70.96A
4 RCW.

5 (4) "Chemical dependency professional" means a person certified as
6 a chemical dependency professional by the department of health under
7 chapter 18.205 RCW.

8 (5) "Commitment" means the determination by a court that an
9 individual should be detained for a period of either evaluation or
10 treatment, or both, in an inpatient or a less restrictive setting.

11 (6) "Conditional release" means a modification of a commitment that
12 may be revoked upon violation of any of its terms.

13 (7) "Custody" means involuntary detention under chapter 71.05 or
14 70.96A RCW, uninterrupted by any period of unconditional release from
15 commitment from a facility providing involuntary care and treatment.

16 (8) "Department" means the department of social and health
17 services.

18 (9) "Designated responder" means a designated mental health
19 professional, a designated chemical dependency specialist, or a
20 designated crisis responder as those terms are defined in chapter
21 70.96A, 71.05, or 70.-- (sections 202 through 216 of this act) RCW.

22 (10) "Detention" or "detain" means the lawful confinement of an
23 individual under chapter 70.96A or 71.05 RCW.

24 (11) "Discharge" means the termination of facility authority. The
25 commitment may remain in place, be terminated, or be amended by court
26 order.

27 (12) "Enhanced services facility" means a facility that provides
28 treatment and services to persons for whom acute inpatient treatment is
29 not medically necessary and who have been determined by the department
30 to be inappropriate for placement in other licensed facilities due to
31 the complex needs that result in behavioral and security issues.

32 (13) "Expanded community services program" means a nonsecure
33 program of enhanced behavioral and residential support provided to
34 long-term and residential care providers serving specifically eligible
35 clients who would otherwise be at risk for hospitalization at state
36 hospital geriatric units.

37 (14) "Facility" means an enhanced services facility.

1 (15) "Gravely disabled" means a condition in which an individual,
2 as a result of a mental disorder, as a result of the use of alcohol or
3 other psychoactive chemicals, or both:

4 (a) Is in danger of serious physical harm resulting from a failure
5 to provide for his or her essential human needs of health or safety; or

6 (b) Manifests severe deterioration in routine functioning evidenced
7 by repeated and escalating loss of cognitive or volitional control over
8 his or her actions and is not receiving such care as is essential for
9 his or her health or safety.

10 (16) "History of one or more violent acts" refers to the period of
11 time ten years before the filing of a petition under this chapter, or
12 chapter 70.96A or 71.05 RCW, excluding any time spent, but not any
13 violent acts committed, in a mental health facility or a long-term
14 alcoholism or drug treatment facility, or in confinement as a result of
15 a criminal conviction.

16 (17) "Licensed physician" means a person licensed to practice
17 medicine or osteopathic medicine and surgery in the state of
18 Washington.

19 (18) "Likelihood of serious harm" means:

20 (a) A substantial risk that:

21 (i) Physical harm will be inflicted by an individual upon his or
22 her own person, as evidenced by threats or attempts to commit suicide
23 or inflict physical harm on oneself;

24 (ii) Physical harm will be inflicted by an individual upon another,
25 as evidenced by behavior that has caused such harm or that places
26 another person or persons in reasonable fear of sustaining such harm;
27 or

28 (iii) Physical harm will be inflicted by an individual upon the
29 property of others, as evidenced by behavior that has caused
30 substantial loss or damage to the property of others; or

31 (b) The individual has threatened the physical safety of another
32 and has a history of one or more violent acts.

33 (19) "Mental disorder" means any organic, mental, or emotional
34 impairment that has substantial adverse effects on an individual's
35 cognitive or volitional functions.

36 (20) "Mental health professional" means a psychiatrist,
37 psychologist, psychiatric nurse, or social worker, and such other

1 mental health professionals as may be defined by rules adopted by the
2 secretary under the authority of chapter 71.05 RCW.

3 (21) "Professional person" means a mental health professional and
4 also means a physician, registered nurse, and such others as may be
5 defined in rules adopted by the secretary pursuant to the provisions of
6 this chapter.

7 (22) "Psychiatrist" means a person having a license as a physician
8 and surgeon in this state who has in addition completed three years of
9 graduate training in psychiatry in a program approved by the American
10 medical association or the American osteopathic association and is
11 certified or eligible to be certified by the American board of
12 psychiatry and neurology.

13 (23) "Psychologist" means a person who has been licensed as a
14 psychologist under chapter 18.83 RCW.

15 (24) "Registration records" include all the records of the
16 department, regional support networks, treatment facilities, and other
17 persons providing services to the department, county departments, or
18 facilities which identify individuals who are receiving or who at any
19 time have received services for mental illness.

20 (25) "Release" means legal termination of the commitment under
21 chapter 70.96A or 71.05 RCW.

22 (26) "Resident" means a person admitted to an enhanced services
23 facility.

24 (27) "Secretary" means the secretary of the department or the
25 secretary's designee.

26 (28) "Significant change" means:

27 (a) A deterioration in a resident's physical, mental, or
28 psychosocial condition that has caused or is likely to cause clinical
29 complications or life-threatening conditions; or

30 (b) An improvement in the resident's physical, mental, or
31 psychosocial condition that may make the resident eligible for release
32 or for treatment in a less intensive or less secure setting.

33 (29) "Social worker" means a person with a master's or further
34 advanced degree from an accredited school of social work or a degree
35 deemed equivalent under rules adopted by the secretary.

36 (30) "Treatment" means the broad range of emergency,
37 detoxification, residential, inpatient, and outpatient services and
38 care, including diagnostic evaluation, mental health or chemical

1 dependency education and counseling, medical, psychiatric,
2 psychological, and social service care, vocational rehabilitation, and
3 career counseling, which may be extended to persons with mental
4 disorders, chemical dependency disorders, or both, and their families.

5 (31) "Treatment records" include registration and all other records
6 concerning individuals who are receiving or who at any time have
7 received services for mental illness, which are maintained by the
8 department, by regional support networks and their staffs, and by
9 treatment facilities. "Treatment records" do not include notes or
10 records maintained for personal use by an individual providing
11 treatment services for the department, regional support networks, or a
12 treatment facility if the notes or records are not available to others.

13 (32) "Violent act" means behavior that resulted in homicide,
14 attempted suicide, nonfatal injuries, or substantial damage to
15 property.

16 NEW SECTION. **Sec. 404.** A facility shall honor an advance
17 directive that was validly executed pursuant to chapter 70.122 RCW and
18 a mental health advance directive that was validly executed pursuant to
19 chapter 71.32 RCW.

20 NEW SECTION. **Sec. 405.** A person, eighteen years old or older, may
21 be admitted to an enhanced services facility if he or she meets the
22 criteria in subsections (1) through (3) of this section:

23 (1) The person requires: (a) Daily care by or under the
24 supervision of a mental health professional, chemical dependency
25 professional, or nurse; or (b) assistance with three or more activities
26 of daily living; and

27 (2) The person has: (a) A mental disorder, chemical dependency
28 disorder, or both; (b) an organic or traumatic brain injury; or (c) a
29 cognitive impairment that results in symptoms or behaviors requiring
30 supervision and facility services;

31 (3) The person has two or more of the following:

32 (a) Self-endangering behaviors that are frequent or difficult to
33 manage;

34 (b) Aggressive, threatening, or assaultive behaviors that create a
35 risk to the health or safety of other residents or staff, or a

1 significant risk to property and these behaviors are frequent or
2 difficult to manage;

3 (c) Intrusive behaviors that put residents or staff at risk;

4 (d) Complex medication needs and those needs include psychotropic
5 medications;

6 (e) A history of or likelihood of unsuccessful placements in either
7 a licensed facility or other state facility or a history of rejected
8 applications for admission to other licensed facilities based on the
9 person's behaviors, history, or security needs;

10 (f) A history of frequent or protracted mental health
11 hospitalizations;

12 (g) A history of offenses against a person or felony offenses that
13 created substantial damage to property.

14 NEW SECTION. **Sec. 406.** (1)(a) Every person who is a resident of
15 an enhanced services facility shall be entitled to all the rights set
16 forth in this chapter, and chapters 71.05 and 70.96A RCW, and shall
17 retain all rights not denied him or her under these chapters.

18 (b) No person shall be presumed incompetent as a consequence of
19 receiving an evaluation or voluntary or involuntary treatment for a
20 mental disorder, chemical dependency disorder, or both, under this
21 chapter, or chapter 71.05 or 70.96A RCW, or any prior laws of this
22 state dealing with mental illness. Competency shall not be determined
23 or withdrawn except under the provisions of chapter 10.77 or 11.88 RCW.

24 (c) At the time of his or her treatment planning meeting, every
25 resident of an enhanced services facility shall be given a written
26 statement setting forth the substance of this section. The department
27 shall by rule develop a statement and process for informing residents
28 of their rights in a manner that is likely to be understood by the
29 resident.

30 (2) Every resident of an enhanced services facility shall have the
31 right to adequate care and individualized treatment.

32 (3) The provisions of this chapter shall not be construed to deny
33 to any person treatment by spiritual means through prayer in accordance
34 with the tenets and practices of a church or religious denomination.

35 (4) Persons receiving evaluation or treatment under this chapter
36 shall be given a reasonable choice of an available physician or other
37 professional person qualified to provide such services.

1 (5) The physician-patient privilege or the psychologist-client
2 privilege shall be deemed waived in proceedings under this chapter
3 relating to the administration of antipsychotic medications. As to
4 other proceedings under chapter 10.77, 70.96A, or 71.05 RCW, the
5 privileges shall be waived when a court of competent jurisdiction in
6 its discretion determines that such waiver is necessary to protect
7 either the detained person or the public.

8 (6) Insofar as danger to the person or others is not created, each
9 resident of an enhanced services facility shall have, in addition to
10 other rights not specifically withheld by law, the following rights, a
11 list of which shall be prominently posted in all facilities,
12 institutions, and hospitals providing such services:

13 (a) To wear his or her own clothes and to keep and use his or her
14 own personal possessions, except when deprivation of same is essential
15 to protect the safety of the resident or other persons;

16 (b) To keep and be allowed to spend a reasonable sum of his or her
17 own money for canteen expenses and small purchases;

18 (c) To have access to individual storage space for his or her
19 private use;

20 (d) To have visitors at reasonable times;

21 (e) To have reasonable access to a telephone, both to make and
22 receive confidential calls, consistent with an effective treatment
23 program;

24 (f) To have ready access to letter writing materials, including
25 stamps, and to send and receive uncensored correspondence through the
26 mails;

27 (g) Not to consent to the administration of antipsychotic
28 medications beyond the hearing conducted pursuant to RCW 71.05.215 or
29 71.05.370 (as recodified by this act), or the performance of
30 electroconvulsant therapy, or surgery, except emergency life-saving
31 surgery, unless ordered by a court under RCW 71.05.370 (as recodified
32 by this act);

33 (h) To discuss and actively participate in treatment plans and
34 decisions with professional persons;

35 (i) Not to have psychosurgery performed on him or her under any
36 circumstances;

37 (j) To dispose of property and sign contracts unless such person

1 has been adjudicated an incompetent in a court proceeding directed to
2 that particular issue; and

3 (k) To complain about rights violations or conditions and request
4 the assistance of a mental health ombudsman or representative of
5 Washington protection and advocacy. The facility may not prohibit or
6 interfere with a resident's decision to consult with an advocate of his
7 or her choice.

8 (7) Nothing contained in this chapter shall prohibit a resident
9 from petitioning by writ of habeas corpus for release.

10 (8) Nothing in this section permits any person to knowingly violate
11 a no-contact order or a condition of an active judgment and sentence or
12 active supervision by the department of corrections.

13 (9) A person has a right to refuse placement, except where subject
14 to commitment, in an enhanced services facility. No person shall be
15 denied other department services solely on the grounds that he or she
16 has made such a refusal.

17 (10) A person has a right to appeal the decision of the department
18 that he or she is eligible for placement at an enhanced services
19 facility, and shall be given notice of the right to appeal in a format
20 that is accessible to the person with instructions regarding what to do
21 if the person wants to appeal.

22 NEW SECTION. **Sec. 407.** A person who is gravely disabled or
23 presents a likelihood of serious harm as a result of a mental or
24 chemical dependency disorder or co-occurring mental and chemical
25 dependency disorders has a right to refuse antipsychotic medication.
26 Antipsychotic medication may be administered over the person's
27 objections only pursuant to RCW 71.05.215 or 71.05.370 (as recodified
28 by this act).

29 NEW SECTION. **Sec. 408.** (1)(a) The department shall not license an
30 enhanced services facility that serves any residents under sixty-five
31 years of age for a capacity to exceed sixteen residents.

32 (b) The department may contract for services for the operation of
33 enhanced services facilities only to the extent that funds are
34 specifically provided for that purpose.

35 (2) The facility shall provide an appropriate level of security for
36 the characteristics, behaviors, and legal status of the residents.

1 (3) An enhanced services facility may hold only one license but, to
2 the extent permitted under state and federal law and medicaid
3 requirements, a facility may be located in the same building as another
4 licensed facility, provided that:

5 (a) The enhanced services facility is in a location that is totally
6 separate and discrete from the other licensed facility; and

7 (b) The two facilities maintain separate staffing, unless an
8 exception to this is permitted by the department in rule.

9 (4) Nursing homes under chapter 18.51 RCW, boarding homes under
10 chapter 18.20 RCW, or adult family homes under chapter 70.128 RCW, that
11 become licensed as facilities under this chapter shall be deemed to
12 meet the applicable state and local rules, regulations, permits, and
13 code requirements. All other facilities are required to meet all
14 applicable state and local rules, regulations, permits, and code
15 requirements.

16 NEW SECTION. **Sec. 409.** (1) The enhanced services facility shall
17 complete a comprehensive assessment for each resident within fourteen
18 days of admission, and the assessments shall be repeated upon a
19 significant change in the resident's condition or, at a minimum, every
20 one hundred eighty days if there is no significant change in condition.

21 (2) The enhanced services facility shall develop an individualized
22 treatment plan for each resident based on the comprehensive assessment
23 and any other information in the person's record. The plan shall be
24 updated as necessary, and shall include a plan for appropriate transfer
25 or discharge and reintegration into the community. Where the person is
26 under the supervision of the department of corrections, the facility
27 shall collaborate with the department of corrections to maximize
28 treatment outcomes and reduce the likelihood of reoffense.

29 (3) The plan shall maximize the opportunities for independence,
30 recovery, employment, the resident's participation in treatment
31 decisions, and collaboration with peer-supported services, and provide
32 for care and treatment in the least restrictive manner appropriate to
33 the individual resident, and, where relevant, to any court orders with
34 which the resident must comply.

35 NEW SECTION. **Sec. 410.** (1) An enhanced services facility must

1 have sufficient numbers of staff with the appropriate credentials and
2 training to provide residents with the appropriate care and treatment:

- 3 (a) Mental health treatment;
- 4 (b) Medication services;
- 5 (c) Assistance with the activities of daily living;
- 6 (d) Medical or habilitative treatment;
- 7 (e) Dietary services;
- 8 (f) Security; and
- 9 (g) Chemical dependency treatment.

10 (2) Where an enhanced services facility specializes in medically
11 fragile persons with mental disorders, the on-site staff must include
12 at least one licensed nurse twenty-four hours per day. The nurse must
13 be a registered nurse for at least sixteen hours per day. If the nurse
14 is not a registered nurse, a registered nurse or a doctor must be on-
15 call during the remaining eight hours.

16 (3) Any employee or other individual who will have unsupervised
17 access to vulnerable adults must successfully pass a background inquiry
18 check.

19 NEW SECTION. **Sec. 411.** This chapter does not apply to the
20 following residential facilities:

- 21 (1) Nursing homes licensed under chapter 18.51 RCW;
- 22 (2) Boarding homes licensed under chapter 18.20 RCW;
- 23 (3) Adult family homes licensed under chapter 70.128 RCW;
- 24 (4) Facilities approved and certified under chapter 71A.22 RCW;
- 25 (5) Residential treatment facilities licensed under chapter 71.12
26 RCW; and
- 27 (6) Hospitals licensed under chapter 70.41 RCW.

28 NEW SECTION. **Sec. 412.** (1) The department shall establish
29 licensing rules for enhanced services facilities to serve the
30 populations defined in this chapter.

31 (2) No person or public or private agency may operate or maintain
32 an enhanced services facility without a license, which must be renewed
33 annually.

34 (3) A licensee shall have the following readily accessible and
35 available for review by the department, residents, families of
36 residents, and the public:

1 (a) Its license to operate and a copy of the department's most
2 recent inspection report and any recent complaint investigation reports
3 issued by the department;

4 (b) Its written policies and procedures for all treatment, care,
5 and services provided directly or indirectly by the facility; and

6 (c) The department's toll-free complaint number, which shall also
7 be posted in a clearly visible place and manner.

8 (4) Enhanced services facilities shall maintain a grievance
9 procedure that meets the requirements of rules established by the
10 department.

11 (5) No facility shall discriminate or retaliate in any manner
12 against a resident or employee because the resident, employee, or any
13 other person made a complaint or provided information to the
14 department, the long-term care ombudsman, Washington protection and
15 advocacy system, or a mental health ombudsperson.

16 (6) Each enhanced services facility will post in a prominent place
17 in a common area a notice by the Washington protection and advocacy
18 system providing contact information.

19 NEW SECTION. **Sec. 413.** (1) In any case in which the department
20 finds that a licensee of a facility, or any partner, officer, director,
21 owner of five percent or more of the assets of the facility, or
22 managing employee failed or refused to comply with the requirements of
23 this chapter or the rules established under them, the department may
24 take any or all of the following actions:

25 (a) Suspend, revoke, or refuse to issue or renew a license;

26 (b) Order stop placement; or

27 (c) Assess civil monetary penalties.

28 (2) The department may suspend, revoke, or refuse to renew a
29 license, assess civil monetary penalties, or both, in any case in which
30 it finds that the licensee of a facility, or any partner, officer,
31 director, owner of five percent or more of the assets of the facility,
32 or managing employee:

33 (a) Operated a facility without a license or under a revoked or
34 suspended license;

35 (b) Knowingly or with reason to know made a false statement of a
36 material fact in the license application or any data attached thereto,
37 or in any matter under investigation by the department;

1 (c) Refused to allow representatives or agents of the department to
2 inspect all books, records, and files required to be maintained or any
3 portion of the premises of the facility;

4 (d) Willfully prevented, interfered with, or attempted to impede in
5 any way the work of any duly authorized representative of the
6 department and the lawful enforcement of any provision of this chapter;

7 (e) Willfully prevented or interfered with any representative of
8 the department in the preservation of evidence of any violation of any
9 of the provisions of this chapter or of the rules adopted under it; or

10 (f) Failed to pay any civil monetary penalty assessed by the
11 department under this chapter within ten days after the assessment
12 becomes final.

13 (3)(a) Civil penalties collected under this chapter shall be
14 deposited into a special fund administered by the department.

15 (b) Civil monetary penalties, if imposed, may be assessed and
16 collected, with interest, for each day the facility is or was out of
17 compliance. Civil monetary penalties shall not exceed three thousand
18 dollars per day. Each day upon which the same or a substantially
19 similar action occurs is a separate violation subject to the assessment
20 of a separate penalty.

21 (4) The department may use the civil penalty monetary fund for the
22 protection of the health or property of residents of facilities found
23 to be deficient including:

24 (a) Payment for the cost of relocation of residents to other
25 facilities;

26 (b) Payment to maintain operation of a facility pending correction
27 of deficiencies or closure; and

28 (c) Reimbursement of a resident for personal funds or property
29 loss.

30 (5)(a) The department may issue a stop placement order on a
31 facility, effective upon oral or written notice, when the department
32 determines:

33 (i) The facility no longer substantially meets the requirements of
34 this chapter; and

35 (ii) The deficiency or deficiencies in the facility:

36 (A) Jeopardizes the health and safety of the residents; or

37 (B) Seriously limits the facility's capacity to provide adequate
38 care.

1 (b) When the department has ordered a stop placement, the
2 department may approve a readmission to the facility from a hospital,
3 residential treatment facility, or crisis intervention facility when
4 the department determines the readmission would be in the best interest
5 of the individual seeking readmission.

6 (6) If the department determines that an emergency exists and
7 resident health and safety is immediately jeopardized as a result of a
8 facility's failure or refusal to comply with this chapter, the
9 department may summarily suspend the facility's license and order the
10 immediate closure of the facility, or the immediate transfer of
11 residents, or both.

12 (7) If the department determines that the health or safety of the
13 residents is immediately jeopardized as a result of a facility's
14 failure or refusal to comply with requirements of this chapter, the
15 department may appoint temporary management to:

- 16 (a) Oversee the operation of the facility; and
17 (b) Ensure the health and safety of the facility's residents while:
18 (i) Orderly closure of the facility occurs; or
19 (ii) The deficiencies necessitating temporary management are
20 corrected.

21 NEW SECTION. Sec. 414. (1) All orders of the department denying,
22 suspending, or revoking the license or assessing a monetary penalty
23 shall become final twenty days after the same has been served upon the
24 applicant or licensee unless a hearing is requested.

25 (2) All orders of the department imposing stop placement, temporary
26 management, emergency closure, emergency transfer, or summary license
27 suspension shall be effective immediately upon notice, pending any
28 hearing.

29 (3) Subject to the requirements of subsection (2) of this section,
30 all hearings under this chapter and judicial review of such
31 determinations shall be in accordance with the administrative procedure
32 act, chapter 34.05 RCW.

33 NEW SECTION. Sec. 415. Operation of a facility without a license
34 in violation of this chapter and discrimination against medicaid
35 recipients is a matter vitally affecting the public interest for the
36 purpose of applying the consumer protection act, chapter 19.86 RCW.

1 Operation of an enhanced services facility without a license in
2 violation of this chapter is not reasonable in relation to the
3 development and preservation of business. Such a violation is an
4 unfair or deceptive act in trade or commerce and an unfair method of
5 competition for the purpose of applying the consumer protection act,
6 chapter 19.86 RCW.

7 NEW SECTION. **Sec. 416.** A person operating or maintaining a
8 facility without a license under this chapter is guilty of a
9 misdemeanor and each day of a continuing violation after conviction
10 shall be considered a separate offense.

11 NEW SECTION. **Sec. 417.** Notwithstanding the existence or use of
12 any other remedy, the department may, in the manner provided by law,
13 maintain an action in the name of the state for an injunction, civil
14 penalty, or other process against a person to restrain or prevent the
15 operation or maintenance of a facility without a license issued under
16 this chapter.

17 NEW SECTION. **Sec. 418.** (1) The department shall make or cause to
18 be made at least one inspection of each facility prior to licensure and
19 an unannounced full inspection of facilities at least once every
20 eighteen months. The statewide average interval between full facility
21 inspections must be fifteen months.

22 (2) Any duly authorized officer, employee, or agent of the
23 department may enter and inspect any facility at any time to determine
24 that the facility is in compliance with this chapter and applicable
25 rules, and to enforce any provision of this chapter. Complaint
26 inspections shall be unannounced and conducted in such a manner as to
27 ensure maximum effectiveness. No advance notice shall be given of any
28 inspection unless authorized or required by federal law.

29 (3) During inspections, the facility must give the department
30 access to areas, materials, and equipment used to provide care or
31 support to residents, including resident and staff records, accounts,
32 and the physical premises, including the buildings, grounds, and
33 equipment. The department has the authority to privately interview the
34 provider, staff, residents, and other individuals familiar with
35 resident care and treatment.

1 (4) Any public employee giving advance notice of an inspection in
2 violation of this section shall be suspended from all duties without
3 pay for a period of not less than five nor more than fifteen days.

4 (5) The department shall prepare a written report describing the
5 violations found during an inspection, and shall provide a copy of the
6 inspection report to the facility.

7 (6) The facility shall develop a written plan of correction for any
8 violations identified by the department and provide a plan of
9 correction to the department within ten working days from the receipt
10 of the inspection report.

11 NEW SECTION. **Sec. 419.** The facility shall only admit individuals:

12 (1) Who are over the age of eighteen;

13 (2) Who meet the resident eligibility requirements described in
14 section 405 of this act; and

15 (3) Whose needs the facility can safely and appropriately meet
16 through qualified and trained staff, services, equipment, security, and
17 building design.

18 NEW SECTION. **Sec. 420.** If the facility does not employ a
19 qualified professional able to furnish needed services, the facility
20 must have a written contract with a qualified professional or agency
21 outside the facility to furnish the needed services.

22 NEW SECTION. **Sec. 421.** At least sixty days before the effective
23 date of any change of ownership, or change of management of a facility,
24 the current operating entity must provide written notification about
25 the proposed change separately and in writing, to the department, each
26 resident of the facility, or the resident's guardian or representative.

27 NEW SECTION. **Sec. 422.** The facility shall:

28 (1) Maintain adequate resident records to enable the provision of
29 necessary treatment, care, and services and to respond appropriately in
30 emergency situations;

31 (2) Comply with all state and federal requirements related to
32 documentation, confidentiality, and information sharing, including
33 chapters 10.77, 70.02, 70.24, 70.96A, and 71.05 RCW; and

1 (3) Where possible, obtain signed releases of information
2 designating the department, the facility, and the department of
3 corrections where the person is under its supervision, as recipients of
4 health care information.

5 NEW SECTION. **Sec. 423.** (1) Standards for fire protection and the
6 enforcement thereof, with respect to all facilities licensed under this
7 chapter, are the responsibility of the chief of the Washington state
8 patrol, through the director of fire protection, who must adopt
9 recognized standards as applicable to facilities for the protection of
10 life against the cause and spread of fire and fire hazards. If the
11 facility to be licensed meets with the approval of the chief of the
12 Washington state patrol, through the director of fire protection, the
13 director of fire protection must submit to the department a written
14 report approving the facility with respect to fire protection before a
15 full license can be issued. The chief of the Washington state patrol,
16 through the director of fire protection, shall conduct an unannounced
17 full inspection of facilities at least once every eighteen months. The
18 statewide average interval between full facility inspections must be
19 fifteen months.

20 (2) Inspections of facilities by local authorities must be
21 consistent with the requirements adopted by the chief of the Washington
22 state patrol, through the director of fire protection. Findings of a
23 serious nature must be coordinated with the department and the chief of
24 the Washington state patrol, through the director of fire protection,
25 for determination of appropriate actions to ensure a safe environment
26 for residents. The chief of the Washington state patrol, through the
27 director of fire protection, has exclusive authority to determine
28 appropriate corrective action under this section.

29 NEW SECTION. **Sec. 424.** No facility providing care and treatment
30 for individuals placed in a facility, or agency licensing or placing
31 residents in a facility, acting in the course of its duties, shall be
32 civilly or criminally liable for performing its duties under this
33 chapter, provided that such duties were performed in good faith and
34 without gross negligence.

1 requirements that are more stringent than the minimum. The minimum
2 requirements are:

- 3 (i) The offender would benefit from psychiatric treatment;
- 4 (ii) The offender has not previously been convicted of a serious
5 violent offense or sex offense as defined in RCW 9.94A.030; and
- 6 (iii) Without regard to whether proof of any of these elements is
7 required to convict, the offender is not currently charged with or
8 convicted of an offense:
 - 9 (A) That is a sex offense;
 - 10 (B) That is a serious violent offense;
 - 11 (C) During which the defendant used a firearm; or
 - 12 (D) During which the defendant caused substantial or great bodily
13 harm or death to another person.

14 NEW SECTION. **Sec. 502.** A new section is added to chapter 2.28 RCW
15 to read as follows:

16 Any county that has established a drug court and a mental health
17 court under this chapter may combine the functions of both courts into
18 a single therapeutic court.

19 NEW SECTION. **Sec. 503.** A new section is added to chapter 26.12
20 RCW to read as follows:

21 (1) Every county that authorizes the tax provided in section 804 of
22 this act shall, and every county may, establish and operate a
23 therapeutic court component for dependency proceedings designed to be
24 effective for the court's size, location, and resources. A county with
25 a drug court for criminal cases or with a mental health court may
26 include a therapeutic court for dependency proceedings as a component
27 of its existing program.

28 (2) For the purposes of this section, "therapeutic court" means a
29 court that has special calendars or dockets designed for the intense
30 judicial supervision, coordination, and oversight of treatment provided
31 to parents and families who have substance abuse or mental health
32 problems and who are involved in the dependency and is designed to
33 achieve a reduction in:

- 34 (a) Child abuse and neglect;
- 35 (b) Out-of-home placement of children;
- 36 (c) Termination of parental rights; and

1 (d) Substance abuse or mental health symptoms among parents or
2 guardians and their children.

3 (3) To the extent possible, the therapeutic court shall provide
4 services for parents and families co-located with the court or as near
5 to the court as practicable.

6 (4) The department of social and health services shall furnish
7 services to the therapeutic court unless a court contracts with
8 providers outside of the department.

9 (5) Any jurisdiction that receives a state appropriation to fund a
10 therapeutic court must first exhaust all federal funding available for
11 the development and operation of the therapeutic court and associated
12 services.

13 (6) Moneys allocated by the state for a therapeutic court must be
14 used to supplement, not supplant, other federal, state, local, and
15 private funding for court operations and associated services under this
16 section.

17 (7) Any county that establishes a therapeutic court or receives
18 funds for an existing court under this section shall:

19 (a) Establish minimum requirements for the participation in the
20 program; and

21 (b) Develop an evaluation component of the court, including
22 tracking the success rates in graduating from treatment, reunifying
23 parents with their children, and the costs and benefits of the court.

24 **Sec. 504.** RCW 2.28.170 and 2002 c 290 s 13 are each amended to
25 read as follows:

26 (1) Counties may establish and operate drug courts.

27 (2) For the purposes of this section, "drug court" means a court
28 that has special calendars or dockets designed to achieve a reduction
29 in recidivism and substance abuse among nonviolent, substance abusing
30 felony and nonfelony offenders by increasing their likelihood for
31 successful rehabilitation through early, continuous, and intense
32 judicially supervised treatment; mandatory periodic drug testing; and
33 the use of appropriate sanctions and other rehabilitation services.

34 (3)(a) Any jurisdiction that seeks a state appropriation to fund a
35 drug court program must first:

36 (i) Exhaust all federal funding (~~received from the office of~~

1 ~~national drug control policy~~) that is available to support the
2 operations of its drug court and associated services; and

3 (ii) Match, on a dollar-for-dollar basis, state moneys allocated
4 for drug court programs with local cash or in-kind resources. Moneys
5 allocated by the state must be used to supplement, not supplant, other
6 federal, state, and local funds for drug court operations and
7 associated services.

8 (b) Any county that establishes a drug court pursuant to this
9 section shall establish minimum requirements for the participation of
10 offenders in the program. The drug court may adopt local requirements
11 that are more stringent than the minimum. The minimum requirements
12 are:

13 (i) The offender would benefit from substance abuse treatment;

14 (ii) The offender has not previously been convicted of a serious
15 violent offense or sex offense as defined in RCW 9.94A.030; and

16 (iii) Without regard to whether proof of any of these elements is
17 required to convict, the offender is not currently charged with or
18 convicted of an offense:

19 (A) That is a sex offense;

20 (B) That is a serious violent offense;

21 (C) During which the defendant used a firearm; or

22 (D) During which the defendant caused substantial or great bodily
23 harm or death to another person.

24 **Regional Jails**

25 NEW SECTION. **Sec. 505.** (1) The joint legislative audit and review
26 committee shall investigate and assess whether there are existing
27 facilities in the state that could be converted to use as a regional
28 jail for offenders who have mental or chemical dependency disorders, or
29 both, that need specialized housing and treatment arrangements.

30 (2) The joint legislative audit and review committee shall consider
31 the feasibility of using at least the following facilities or types of
32 facilities:

33 (a) State-owned or operated facilities; and

34 (b) Closed or abandoned nursing homes.

35 (3) The analysis shall include an assessment of when such

1 facilities could be available for use as a regional jail and the
2 potential costs, costs avoided, and benefits of at least the following
3 considerations:

4 (a) Any impact on existing offenders or residents;

5 (b) The conversion of the facilities;

6 (c) Infrastructure tied to the facilities;

7 (d) Whether the facility is, or can be, sized proportionately to
8 the available pool of offenders;

9 (e) Changes in criminal justice costs, including transport, access
10 to legal assistance, and access to courts;

11 (f) Reductions in jail populations; and

12 (g) Changes in treatment costs for these offenders.

13 (4) The joint legislative audit and review committee shall report
14 its findings and recommendations to the appropriate committees of the
15 legislature not later than December 15, 2005.

16 **Competency and Criminal Insanity**

17 NEW SECTION. **Sec. 506.** By January 1, 2006, the department of
18 social and health services shall:

19 (1) Reduce the waiting times for competency evaluation and
20 restoration to the maximum extent possible using funds appropriated for
21 this purpose; and

22 (2) Report to the legislature with an analysis of several
23 alternative strategies for addressing increases in forensic population
24 and minimizing waiting periods for competency evaluation and
25 restoration. The report shall discuss, at a minimum, the costs and
26 advantages of, and barriers to co-locating professional persons in
27 jails, performing restoration treatment in less restrictive
28 alternatives than the state hospitals, and the use of regional jail
29 facilities to accomplish competency evaluation and restoration.

30 **ESSB 6358 Implementation Issues**

31 **Sec. 507.** RCW 71.05.157 and 2004 c 166 s 16 are each amended to
32 read as follows:

33 (1) When a ((county)) designated mental health professional is
34 notified by a jail that a defendant or offender who was subject to a

1 discharge review under RCW 71.05.232 is to be released to the
2 community, the ((~~county~~)) designated mental health professional shall
3 evaluate the person within seventy-two hours of release.

4 (2) When an offender is under court-ordered treatment in the
5 community and the supervision of the department of corrections, and the
6 treatment provider becomes aware that the person is in violation of the
7 terms of the court order, the treatment provider shall notify the
8 ((~~county~~)) designated mental health professional and the department of
9 corrections of the violation and request an evaluation for purposes of
10 revocation of the less restrictive alternative.

11 (3) When a ((~~county~~)) designated mental health professional becomes
12 aware that an offender who is under court-ordered treatment in the
13 community and the supervision of the department of corrections is in
14 violation of a treatment order or a condition of supervision that
15 relates to public safety, or the ((~~county~~)) designated mental health
16 professional detains a person under this chapter, the ((~~county~~))
17 designated mental health professional shall notify the person's
18 treatment provider and the department of corrections.

19 (4) When an offender who is confined in a state correctional
20 facility or is under supervision of the department of corrections in
21 the community is subject to a petition for involuntary treatment under
22 this chapter, the petitioner shall notify the department of corrections
23 and the department of corrections shall provide documentation of its
24 risk assessment or other concerns to the petitioner and the court if
25 the department of corrections classified the offender as a high risk or
26 high needs offender.

27 (5) Nothing in this section creates a duty on any treatment
28 provider or ((~~county~~)) designated mental health professional to provide
29 offender supervision.

30 NEW SECTION. Sec. 508. A new section is added to chapter 70.96A
31 RCW to read as follows:

32 (1) Treatment providers shall inquire of each person seeking
33 treatment, at intake, whether the person is subject to court ordered
34 mental health or chemical dependency treatment, whether civil or
35 criminal, and document the person's response in his or her record. If
36 the person is in treatment on the effective date of this section, and
37 the treatment provider has not inquired whether the person is subject

1 to court ordered mental health or chemical dependency treatment, the
2 treatment provider shall inquire on the person's next treatment session
3 and document the person's response in his or her record.

4 (2) Treatment providers shall inquire of each person seeking
5 treatment, at intake, whether the person is subject to supervision of
6 any kind by the department of corrections and document the person's
7 response in his or her record. If the person is in treatment on the
8 effective date of this section, and the treatment provider has not
9 inquired whether the person is subject to supervision of any kind by
10 the department of corrections, the treatment provider shall inquire on
11 the person's next treatment session and document the person's response
12 in his or her record.

13 (3) For all persons who are subject to both court ordered mental
14 health or chemical dependency treatment and supervision by the
15 department of corrections, the treatment provider shall request an
16 authorization to release records and notify the person that, unless
17 expressly excluded by the court order the law requires treatment
18 providers to share information with the department of corrections and
19 the person's mental health treatment provider.

20 (4) If the treatment provider has reason to believe that a person
21 is subject to supervision by the department of corrections but the
22 person's record does not indicate that he or she is, the treatment
23 provider may call any department of corrections office and provide the
24 person's name and birth date. If the person is subject to supervision,
25 the treatment provider shall request, and the department of corrections
26 shall provide, the name and contact information for the person's
27 community corrections officer.

28 **PART VI**

29 **BEST PRACTICES AND COLLABORATION**

30 NEW SECTION. **Sec. 601.** (1) The department of social and health
31 services, in consultation with the members of the team charged with
32 developing the state plan for co-occurring mental and substance abuse
33 disorders, shall adopt, not later than January 1, 2006, an integrated
34 and comprehensive screening and assessment process for chemical
35 dependency and mental disorders and co-occurring chemical dependency
36 and mental disorders.

1 (a) The process adopted shall include, at a minimum:

2 (i) An initial screening tool that can be used by intake personnel
3 system-wide and which will identify the most common types of co-
4 occurring disorders;

5 (ii) An assessment process for those cases in which assessment is
6 indicated that provides an appropriate degree of assessment for most
7 situations, which can be expanded for complex situations;

8 (iii) Identification of triggers in the screening that indicate the
9 need to begin an assessment;

10 (iv) Identification of triggers after or outside the screening that
11 indicate a need to begin or resume an assessment;

12 (v) The components of an assessment process and a protocol for
13 determining whether part or all of the assessment is necessary, and at
14 what point; and

15 (vi) Emphasis that the process adopted under this section is to
16 replace and not to duplicate existing intake, screening, and assessment
17 tools and processes.

18 (b) The department shall consider existing models, including those
19 already adopted by other states, and to the extent possible, adopt an
20 established, proven model.

21 (c) The integrated, comprehensive screening and assessment process
22 shall be implemented statewide by all chemical dependency and mental
23 health treatment providers as well as all designated mental health
24 professionals, designated chemical dependency specialists, and
25 designated crisis responders not later than January 1, 2007.

26 (2) The department shall provide adequate training to effect
27 statewide implementation by the dates designated in this section and
28 shall report the rates of co-occurring disorders and the stage of
29 screening or assessment at which the co-occurring disorder was
30 identified to the appropriate committees of the legislature.

31 (3) The department shall establish contractual penalties to
32 contracted treatment providers, the regional support networks, and
33 their contracted providers for failure to implement the integrated
34 screening and assessment process by July 1, 2007.

35 NEW SECTION. **Sec. 602.** The department of corrections shall, to
36 the extent that resources are available for this purpose, utilize the

1 integrated, comprehensive screening and assessment process for chemical
2 dependency and mental disorders developed under section 601 of this
3 act.

4 ***NEW SECTION.** Sec. 603. A new section is added to chapter 71.24
5 RCW to read as follows:

6 (1) By June 30, 2006, the department shall develop and implement a
7 matrix or set of matrices for providing services based on the following
8 principles:

9 (a) Maximizing evidence-based practices where these practices
10 exist; where no evidence-based practice exists, the use of research-
11 based practices, including but not limited to, the adaptation of
12 evidence-based practices to new situations; where no evidence-based or
13 research-based practices exist the use of consensus-based practices;
14 and, to the extent that funds are available, the use of promising
15 practices;

16 (b) Maximizing the person's independence, recovery, and employment
17 by consideration of the person's strengths and supports in the
18 community;

19 (c) Maximizing the person's participation in treatment decisions
20 including, where possible, the person's awareness of, and technical
21 assistance in preparing, mental health advance directives; and

22 (d) Collaboration with consumer-based support programs.

23 (2) The matrix or set of matrices shall include both adults and
24 children and persons with co-occurring mental and substance abuse
25 disorders and shall build on the service intensity quadrant models that
26 have been developed in this state.

27 (3)(a) The matrix or set of matrices shall be developed in
28 collaboration with experts in evidence-based practices for mental
29 disorders, chemical dependency disorders, and co-occurring mental and
30 chemical dependency disorders at the University of Washington, and in
31 consultation with representatives of the regional support networks,
32 community mental health providers, county chemical dependency
33 coordinators, chemical dependency providers, consumers, family
34 advocates, and community inpatient providers.

35 (b) The matrix or set of matrices shall, to the extent possible,
36 adopt or utilize materials already prepared by the department or by
37 other states.

1 (4)(a) The department shall require, by contract with the regional
2 support networks, that providers maximize the use of evidence-based,
3 research-based, and consensus-based practices and document the
4 percentage of clients enrolled in evidence-based, research-based, and
5 consensus-based programs by program type.

6 (b) The department shall establish a schedule by which regional
7 support networks and providers must adopt the matrix or set of matrices
8 and a schedule of penalties for failure to adopt and implement the
9 matrices. The department may act against the regional support networks
10 or providers or both to enforce the provisions of this section and
11 shall provide the appropriate committees of the legislature with the
12 schedules adopted under this subsection by June 30, 2006.

13 (5) The following definitions apply to this section:

14 (a) "Evidence-based" means a program or practice that has had
15 multiple site random controlled trials across heterogeneous populations
16 demonstrating that the program or practice is effective for the
17 population.

18 (b) "Research-based" means a program or practice that has some
19 research demonstrating effectiveness, but that does not yet meet the
20 standard of evidence-based practices.

21 (c) "Consensus-based" means a program or practice that has general
22 support among treatment providers and experts, based on experience or
23 professional literature, and may have anecdotal or case study support,
24 or that is agreed but not possible to perform studies with random
25 assignment and controlled groups.

26 (d) "Promising practice" means a practice that presents, based on
27 preliminary information, potential for becoming a research-based or
28 consensus-based practice.

**Sec. 603 was vetoed. See message at end of chapter.*

29 ***NEW SECTION.** Sec. 604. A new section is added to chapter 71.02
30 RCW to read as follows:

31 (1) The department of social and health services shall collaborate
32 with community providers of mental health services, early learning and
33 child care providers, child serving agencies, and child-placing
34 agencies to identify and utilize federal, state, and local services and
35 providers for children in out-of-home care and other populations of
36 vulnerable children who are in need of an evaluation and treatment for

1 mental health services and do not qualify for medicaid or treatment
2 services through the regional support networks.

3 (2) If no appropriate mental health services are available through
4 federal, state, or local services and providers for a child described
5 in subsection (1) of this section, the regional support network must
6 provide a child, at a minimum, with a mental health evaluation
7 consistent with chapter 71.24 RCW.

8 (3) The department, in collaboration with the office of the
9 superintendent of public instruction, local providers, local school
10 districts, and the regional support networks, shall identify and review
11 existing programs and services as well as the unmet need for programs
12 and services serving birth to five and school-aged children who exhibit
13 early signs of behavioral or mental health disorders and who are not
14 otherwise eligible for services through the regional support networks.
15 The review of programs and services shall include, but not be limited
16 to, the utilization and effectiveness of early intervention or
17 prevention services and the primary intervention programs.

18 The department of social and health services shall provide a
19 briefing on the collaboration's findings and recommendations to the
20 appropriate committee of the legislature by December 31, 2005.

*Sec. 604 was vetoed. See message at end of chapter.

21 NEW SECTION. **Sec. 605.** The Washington state institute for public
22 policy shall study the net short-run and long-run fiscal savings to
23 state and local governments of implementing evidence-based treatment of
24 chemical dependency disorders, mental disorders, and co-occurring
25 mental and substance abuse disorders. The institute shall use the
26 results from its 2004 report entitled "Benefits and Costs of Prevention
27 and Early Intervention Programs for Youth" and its work on effective
28 adult corrections programs to project total fiscal impacts under
29 alternative implementation scenarios. In addition to fiscal outcomes,
30 the institute shall estimate the long-run effects that an evidence-
31 based strategy could have on statewide education, crime, child abuse
32 and neglect, substance abuse, and economic outcomes. The institute
33 shall provide an interim report to the appropriate committees of the
34 legislature by January 1, 2006, and a final report by June 30, 2006.

35 **PART VII**

1 **REPEALERS AND CROSS-REFERENCE CORRECTIONS**

2 NEW SECTION. **Sec. 701.** The following acts or parts of acts are
3 each repealed on the effective date of section 107 of this act:

4 (1) RCW 71.05.060 (Rights of persons complained against) and 1973
5 1st ex.s. c 142 s 11;

6 (2) RCW 71.05.070 (Prayer treatment) and 1973 1st ex.s. c 142 s 12;

7 (3) RCW 71.05.090 (Choice of physicians) and 1973 2nd ex.s. c 24 s
8 3 & 1973 1st ex.s. c 142 s 14;

9 (4) RCW 71.05.200 (Notice and statement of rights--Probable cause
10 hearing) and 1998 c 297 s 11, 1997 c 112 s 14, 1989 c 120 s 5, 1974
11 ex.s. c 145 s 13, & 1973 1st ex.s. c 142 s 25;

12 (5) RCW 71.05.250 (Probable cause hearing--Detained person's
13 rights--Waiver of privilege--Limitation--Records as evidence) and 1989
14 c 120 s 7, 1987 c 439 s 6, 1974 ex.s. c 145 s 17, & 1973 1st ex.s. c
15 142 s 30;

16 (6) RCW 71.05.450 (Competency--Effect--Statement of Washington law)
17 and 1994 sp.s. c 7 s 440 & 1973 1st ex.s. c 142 s 50;

18 (7) RCW 71.05.460 (Right to counsel) and 1997 c 112 s 33 & 1973 1st
19 ex.s. c 142 s 51;

20 (8) RCW 71.05.470 (Right to examination) and 1997 c 112 s 34 & 1973
21 1st ex.s. c 142 s 52;

22 (9) RCW 71.05.480 (Petitioning for release--Writ of habeas corpus)
23 and 1974 ex.s. c 145 s 29 & 1973 1st ex.s. c 142 s 53; and

24 (10) RCW 71.05.490 (Rights of persons committed before January 1,
25 1974) and 1997 c 112 s 35 & 1973 1st ex.s. c 142 s 54.

26 NEW SECTION. **Sec. 702.** The following acts or parts of acts are
27 each repealed on the effective date of section 109 of this act:

28 (1) RCW 71.05.155 (Request to mental health professional by law
29 enforcement agency for investigation under RCW 71.05.150--Advisory
30 report of results) and 1997 c 112 s 9 & 1979 ex.s. c 215 s 10;

31 (2) RCW 71.05.395 (Application of uniform health care information
32 act, chapter 70.02 RCW) and 1993 c 448 s 8;

33 (3) RCW 71.05.400 (Release of information to patient's next of kin,
34 attorney, guardian, conservator--Notification of patient's death) and
35 1993 c 448 s 7, 1974 ex.s. c 115 s 1, 1973 2nd ex.s. c 24 s 6, & 1973
36 1st ex.s. c 142 s 45;

1 (4) RCW 71.05.410 (Notice of disappearance of patient) and 1997 c
2 112 s 32, 1973 2nd ex.s. c 24 s 7, & 1973 1st ex.s. c 142 s 46; and
3 (5) RCW 71.05.430 (Statistical data) and 1973 1st ex.s. c 142 s 48.

4 NEW SECTION. **Sec. 703.** RCW 71.05.610 (Treatment records--
5 Definitions) and 1989 c 205 s 11 are each repealed on the effective
6 date of sections 104 through 106 of this act.

7 NEW SECTION. **Sec. 704.** The following acts or parts of acts are
8 each repealed:

9 (1) RCW 71.05.650 (Treatment records--Notation of and access to
10 released data) and 1989 c 205 s 15; and

11 (2) RCW 71.05.670 (Treatment records--Violations--Civil action) and
12 1999 c 13 s 10.

13 **Sec. 705.** RCW 5.60.060 and 2001 c 286 s 2 are each amended to read
14 as follows:

15 (1) A husband shall not be examined for or against his wife,
16 without the consent of the wife, nor a wife for or against her husband
17 without the consent of the husband; nor can either during marriage or
18 afterward, be without the consent of the other, examined as to any
19 communication made by one to the other during marriage. But this
20 exception shall not apply to a civil action or proceeding by one
21 against the other, nor to a criminal action or proceeding for a crime
22 committed by one against the other, nor to a criminal action or
23 proceeding against a spouse if the marriage occurred subsequent to the
24 filing of formal charges against the defendant, nor to a criminal
25 action or proceeding for a crime committed by said husband or wife
26 against any child of whom said husband or wife is the parent or
27 guardian, nor to a proceeding under chapter 70.96A, 70.-- (sections 202
28 through 216 of this act), 71.05, or 71.09 RCW: PROVIDED, That the
29 spouse of a person sought to be detained under chapter 70.96A, 70.--
30 (sections 202 through 216 of this act), 71.05, or 71.09 RCW may not be
31 compelled to testify and shall be so informed by the court prior to
32 being called as a witness.

33 (2)(a) An attorney or counselor shall not, without the consent of
34 his or her client, be examined as to any communication made by the

1 client to him or her, or his or her advice given thereon in the course
2 of professional employment.

3 (b) A parent or guardian of a minor child arrested on a criminal
4 charge may not be examined as to a communication between the child and
5 his or her attorney if the communication was made in the presence of
6 the parent or guardian. This privilege does not extend to
7 communications made prior to the arrest.

8 (3) A member of the clergy or a priest shall not, without the
9 consent of a person making the confession, be examined as to any
10 confession made to him or her in his or her professional character, in
11 the course of discipline enjoined by the church to which he or she
12 belongs.

13 (4) Subject to the limitations under RCW 70.96A.140 or
14 (~~(71.05.250)~~) 71.05.360 (8) and (9), a physician or surgeon or
15 osteopathic physician or surgeon or podiatric physician or surgeon
16 shall not, without the consent of his or her patient, be examined in a
17 civil action as to any information acquired in attending such patient,
18 which was necessary to enable him or her to prescribe or act for the
19 patient, except as follows:

20 (a) In any judicial proceedings regarding a child's injury,
21 neglect, or sexual abuse or the cause thereof; and

22 (b) Ninety days after filing an action for personal injuries or
23 wrongful death, the claimant shall be deemed to waive the physician-
24 patient privilege. Waiver of the physician-patient privilege for any
25 one physician or condition constitutes a waiver of the privilege as to
26 all physicians or conditions, subject to such limitations as a court
27 may impose pursuant to court rules.

28 (5) A public officer shall not be examined as a witness as to
29 communications made to him or her in official confidence, when the
30 public interest would suffer by the disclosure.

31 (6)(a) A peer support group counselor shall not, without consent of
32 the law enforcement officer making the communication, be compelled to
33 testify about any communication made to the counselor by the officer
34 while receiving counseling. The counselor must be designated as such
35 by the sheriff, police chief, or chief of the Washington state patrol,
36 prior to the incident that results in counseling. The privilege only
37 applies when the communication was made to the counselor while acting
38 in his or her capacity as a peer support group counselor. The

1 privilege does not apply if the counselor was an initial responding
2 officer, a witness, or a party to the incident which prompted the
3 delivery of peer support group counseling services to the law
4 enforcement officer.

5 (b) For purposes of this section, "peer support group counselor"
6 means a:

7 (i) Law enforcement officer, or civilian employee of a law
8 enforcement agency, who has received training to provide emotional and
9 moral support and counseling to an officer who needs those services as
10 a result of an incident in which the officer was involved while acting
11 in his or her official capacity; or

12 (ii) Nonemployee counselor who has been designated by the sheriff,
13 police chief, or chief of the Washington state patrol to provide
14 emotional and moral support and counseling to an officer who needs
15 those services as a result of an incident in which the officer was
16 involved while acting in his or her official capacity.

17 (7) A sexual assault advocate may not, without the consent of the
18 victim, be examined as to any communication made by the victim to the
19 sexual assault advocate.

20 (a) For purposes of this section, "sexual assault advocate" means
21 the employee or volunteer from a rape crisis center, victim assistance
22 unit, program, or association, that provides information, medical or
23 legal advocacy, counseling, or support to victims of sexual assault,
24 who is designated by the victim to accompany the victim to the hospital
25 or other health care facility and to proceedings concerning the alleged
26 assault, including police and prosecution interviews and court
27 proceedings.

28 (b) A sexual assault advocate may disclose a confidential
29 communication without the consent of the victim if failure to disclose
30 is likely to result in a clear, imminent risk of serious physical
31 injury or death of the victim or another person. Any sexual assault
32 advocate participating in good faith in the disclosing of records and
33 communications under this section shall have immunity from any
34 liability, civil, criminal, or otherwise, that might result from the
35 action. In any proceeding, civil or criminal, arising out of a
36 disclosure under this section, the good faith of the sexual assault
37 advocate who disclosed the confidential communication shall be
38 presumed.

1 **Sec. 706.** RCW 18.83.110 and 1989 c 271 s 303 are each amended to
2 read as follows:

3 Confidential communications between a client and a psychologist
4 shall be privileged against compulsory disclosure to the same extent
5 and subject to the same conditions as confidential communications
6 between attorney and client, but this exception is subject to the
7 limitations under RCW 70.96A.140 and (~~71.05.250~~) 71.05.360 (8) and
8 (9).

9 **Sec. 707.** RCW 18.225.105 and 2003 c 204 s 1 are each amended to
10 read as follows:

11 A person licensed under this chapter shall not disclose the written
12 acknowledgment of the disclosure statement pursuant to RCW 18.225.100,
13 nor any information acquired from persons consulting the individual in
14 a professional capacity when the information was necessary to enable
15 the individual to render professional services to those persons except:

16 (1) With the written authorization of that person or, in the case
17 of death or disability, the person's personal representative;

18 (2) If the person waives the privilege by bringing charges against
19 the person licensed under this chapter;

20 (3) In response to a subpoena from the secretary. The secretary
21 may subpoena only records related to a complaint or report under RCW
22 18.130.050;

23 (4) As required under chapter 26.44 or 74.34 RCW or RCW
24 (~~71.05.250~~) 71.05.360 (8) and (9); or

25 (5) To any individual if the person licensed under this chapter
26 reasonably believes that disclosure will avoid or minimize an imminent
27 danger to the health or safety of the individual or any other
28 individual; however, there is no obligation on the part of the provider
29 to so disclose.

30 **Sec. 708.** RCW 71.05.235 and 2000 c 74 s 6 are each amended to read
31 as follows:

32 (1) If an individual is referred to a (~~county~~) designated mental
33 health professional under RCW 10.77.090(1)(d)(iii)(A), the (~~county~~)
34 designated mental health professional shall examine the individual
35 within forty-eight hours. If the (~~county~~) designated mental health
36 professional determines it is not appropriate to detain the individual

1 or petition for a ninety-day less restrictive alternative under RCW
2 71.05.230(4), that decision shall be immediately presented to the
3 superior court for hearing. The court shall hold a hearing to consider
4 the decision of the ((county)) designated mental health professional
5 not later than the next judicial day. At the hearing the superior
6 court shall review the determination of the ((county)) designated
7 mental health professional and determine whether an order should be
8 entered requiring the person to be evaluated at an evaluation and
9 treatment facility. No person referred to an evaluation and treatment
10 facility may be held at the facility longer than seventy-two hours.

11 (2) If an individual is placed in an evaluation and treatment
12 facility under RCW 10.77.090(1)(d)(iii)(B), a professional person shall
13 evaluate the individual for purposes of determining whether to file a
14 ninety-day inpatient or outpatient petition under chapter 71.05 RCW.
15 Before expiration of the seventy-two hour evaluation period authorized
16 under RCW 10.77.090(1)(d)(iii)(B), the professional person shall file
17 a petition or, if the recommendation of the professional person is to
18 release the individual, present his or her recommendation to the
19 superior court of the county in which the criminal charge was
20 dismissed. The superior court shall review the recommendation not
21 later than forty-eight hours, excluding Saturdays, Sundays, and
22 holidays, after the recommendation is presented. If the court rejects
23 the recommendation to unconditionally release the individual, the court
24 may order the individual detained at a designated evaluation and
25 treatment facility for not more than a seventy-two hour evaluation and
26 treatment period and direct the individual to appear at a surety
27 hearing before that court within seventy-two hours, or the court may
28 release the individual but direct the individual to appear at a surety
29 hearing set before that court within eleven days, at which time the
30 prosecutor may file a petition under this chapter for ninety-day
31 inpatient or outpatient treatment. If a petition is filed by the
32 prosecutor, the court may order that the person named in the petition
33 be detained at the evaluation and treatment facility that performed the
34 evaluation under this subsection or order the respondent to be in
35 outpatient treatment. If a petition is filed but the individual fails
36 to appear in court for the surety hearing, the court shall order that
37 a mental health professional or peace officer shall take such person or
38 cause such person to be taken into custody and placed in an evaluation

1 and treatment facility to be brought before the court the next judicial
2 day after detention. Upon the individual's first appearance in court
3 after a petition has been filed, proceedings under RCW 71.05.310 and
4 71.05.320 shall commence. For an individual subject to this
5 subsection, the prosecutor or professional person may directly file a
6 petition for ninety-day inpatient or outpatient treatment and no
7 petition for initial detention or fourteen-day detention is required
8 before such a petition may be filed.

9 The court shall conduct the hearing on the petition filed under
10 this subsection within five judicial days of the date the petition is
11 filed. The court may continue the hearing upon the written request of
12 the person named in the petition or the person's attorney, for good
13 cause shown, which continuance shall not exceed five additional
14 judicial days. If the person named in the petition requests a jury
15 trial, the trial shall commence within ten judicial days of the date of
16 the filing of the petition. The burden of proof shall be by clear,
17 cogent, and convincing evidence and shall be upon the petitioner. The
18 person shall be present at such proceeding, which shall in all respects
19 accord with the constitutional guarantees of due process of law and the
20 rules of evidence pursuant to RCW (~~(71.05.250)~~) 71.05.360 (8) and (9).

21 During the proceeding the person named in the petition shall
22 continue to be detained and treated until released by order of the
23 court. If no order has been made within thirty days after the filing
24 of the petition, not including any extensions of time requested by the
25 detained person or his or her attorney, the detained person shall be
26 released.

27 (3) If a (~~county~~) designated mental health professional or the
28 professional person and prosecuting attorney for the county in which
29 the criminal charge was dismissed or attorney general, as appropriate,
30 stipulate that the individual does not present a likelihood of serious
31 harm or is not gravely disabled, the hearing under this section is not
32 required and the individual, if in custody, shall be released.

33 (4) The individual shall have the rights specified in RCW
34 (~~(71.05.250)~~) 71.05.360 (8) and (9).

35 **Sec. 709.** RCW 71.05.310 and 1987 c 439 s 9 are each amended to
36 read as follows:

37 The court shall conduct a hearing on the petition for ninety day

1 treatment within five judicial days of the first court appearance after
2 the probable cause hearing. The court may continue the hearing upon
3 the written request of the person named in the petition or the person's
4 attorney, for good cause shown, which continuance shall not exceed five
5 additional judicial days. If the person named in the petition requests
6 a jury trial, the trial shall commence within ten judicial days of the
7 first court appearance after the probable cause hearing. The burden of
8 proof shall be by clear, cogent, and convincing evidence and shall be
9 upon the petitioner. The person shall be present at such proceeding,
10 which shall in all respects accord with the constitutional guarantees
11 of due process of law and the rules of evidence pursuant to RCW
12 (~~(71.05.250)~~) 71.05.360 (8) and (9).

13 During the proceeding, the person named in the petition shall
14 continue to be treated until released by order of the superior court.
15 If no order has been made within thirty days after the filing of the
16 petition, not including extensions of time requested by the detained
17 person or his or her attorney, the detained person shall be released.

18 **Sec. 710.** RCW 71.05.425 and 2000 c 94 s 10 are each amended to
19 read as follows:

20 (1)(a) Except as provided in subsection (2) of this section, at the
21 earliest possible date, and in no event later than thirty days before
22 conditional release, final release, authorized leave under RCW
23 71.05.325(2), or transfer to a facility other than a state mental
24 hospital, the superintendent shall send written notice of conditional
25 release, release, authorized leave, or transfer of a person committed
26 under RCW 71.05.280(3) or 71.05.320(2)(c) following dismissal of a sex,
27 violent, or felony harassment offense pursuant to RCW 10.77.090(4) to
28 the following:

29 (i) The chief of police of the city, if any, in which the person
30 will reside; and

31 (ii) The sheriff of the county in which the person will reside.

32 (b) The same notice as required by (a) of this subsection shall be
33 sent to the following, if such notice has been requested in writing
34 about a specific person committed under RCW 71.05.280(3) or
35 71.05.320(2)(c) following dismissal of a sex, violent, or felony
36 harassment offense pursuant to RCW 10.77.090(4):

1 (i) The victim of the sex, violent, or felony harassment offense
2 that was dismissed pursuant to RCW 10.77.090(4) preceding commitment
3 under RCW 71.05.280(3) or 71.05.320(2)(c) or the victim's next of kin
4 if the crime was a homicide;

5 (ii) Any witnesses who testified against the person in any court
6 proceedings; and

7 (iii) Any person specified in writing by the prosecuting attorney.
8 Information regarding victims, next of kin, or witnesses requesting the
9 notice, information regarding any other person specified in writing by
10 the prosecuting attorney to receive the notice, and the notice are
11 confidential and shall not be available to the person committed under
12 this chapter.

13 (c) The thirty-day notice requirements contained in this subsection
14 shall not apply to emergency medical transfers.

15 (d) The existence of the notice requirements in this subsection
16 will not require any extension of the release date in the event the
17 release plan changes after notification.

18 (2) If a person committed under RCW 71.05.280(3) or 71.05.320(2)(c)
19 following dismissal of a sex, violent, or felony harassment offense
20 pursuant to RCW 10.77.090(4) escapes, the superintendent shall
21 immediately notify, by the most reasonable and expedient means
22 available, the chief of police of the city and the sheriff of the
23 county in which the person resided immediately before the person's
24 arrest. If previously requested, the superintendent shall also notify
25 the witnesses and the victim of the sex, violent, or felony harassment
26 offense that was dismissed pursuant to RCW 10.77.090(4) preceding
27 commitment under RCW 71.05.280(3) or 71.05.320(2) or the victim's next
28 of kin if the crime was a homicide. In addition, the secretary shall
29 also notify appropriate parties pursuant to RCW ~~((71.05.410))~~
30 71.05.390(18). If the person is recaptured, the superintendent shall
31 send notice to the persons designated in this subsection as soon as
32 possible but in no event later than two working days after the
33 department learns of such recapture.

34 (3) If the victim, the victim's next of kin, or any witness is
35 under the age of sixteen, the notice required by this section shall be
36 sent to the parent or legal guardian of the child.

37 (4) The superintendent shall send the notices required by this

1 chapter to the last address provided to the department by the
2 requesting party. The requesting party shall furnish the department
3 with a current address.

4 (5) For purposes of this section the following terms have the
5 following meanings:

6 (a) "Violent offense" means a violent offense under RCW 9.94A.030;

7 (b) "Sex offense" means a sex offense under RCW 9.94A.030;

8 (c) "Next of kin" means a person's spouse, parents, siblings, and
9 children;

10 (d) "Felony harassment offense" means a crime of harassment as
11 defined in RCW 9A.46.060 that is a felony.

12 **Sec. 711.** RCW 71.05.445 and 2004 c 166 s 4 are each amended to
13 read as follows:

14 (1) The definitions in this subsection apply throughout this
15 section unless the context clearly requires otherwise.

16 (a) "Information related to mental health services" means all
17 information and records compiled, obtained, or maintained in the course
18 of providing services to either voluntary or involuntary recipients of
19 services by a mental health service provider. This may include
20 documents of legal proceedings under this chapter or chapter 71.34 or
21 10.77 RCW, or somatic health care information.

22 (b) "Mental health service provider" means a public or private
23 agency that provides services to persons with mental disorders as
24 defined under RCW 71.05.020 and receives funding from public sources.
25 This includes evaluation and treatment facilities as defined in RCW
26 71.05.020, community mental health service delivery systems, or
27 community mental health programs as defined in RCW 71.24.025, and
28 facilities conducting competency evaluations and restoration under
29 chapter 10.77 RCW.

30 (2)(a) Information related to mental health services delivered to
31 a person subject to chapter 9.94A or 9.95 RCW shall be released, upon
32 request, by a mental health service provider to department of
33 corrections personnel for whom the information is necessary to carry
34 out the responsibilities of their office. The information must be
35 provided only for the purposes of completing presentence investigations
36 or risk assessment reports, supervision of an incarcerated offender or
37 offender under supervision in the community, planning for and provision

1 of supervision of an offender, or assessment of an offender's risk to
2 the community. The request shall be in writing and shall not require
3 the consent of the subject of the records.

4 (b) If an offender subject to chapter 9.94A or 9.95 RCW has failed
5 to report for department of corrections supervision or in the event of
6 an emergent situation that poses a significant risk to the public or
7 the offender, information related to mental health services delivered
8 to the offender and, if known, information regarding where the offender
9 is likely to be found shall be released by the mental health services
10 provider to the department of corrections upon request. The initial
11 request may be written or oral. All oral requests must be subsequently
12 confirmed in writing. Information released in response to an oral
13 request is limited to a statement as to whether the offender is or is
14 not being treated by the mental health services provider and the
15 address or information about the location or whereabouts of the
16 offender. Information released in response to a written request may
17 include information identified by rule as provided in subsections (4)
18 and (5) of this section. For purposes of this subsection a written
19 request includes requests made by e-mail or facsimile so long as the
20 requesting person at the department of corrections is clearly
21 identified. The request must specify the information being requested.
22 Disclosure of the information requested does not require the consent of
23 the subject of the records unless the offender has received relief from
24 disclosure under RCW 9.94A.562, 70.96A.155, or 71.05.132.

25 (3)(a) When a mental health service provider conducts its initial
26 assessment for a person receiving court-ordered treatment, the service
27 provider shall inquire and shall be told by the offender whether he or
28 she is subject to supervision by the department of corrections.

29 (b) When a person receiving court-ordered treatment or treatment
30 ordered by the department of corrections discloses to his or her mental
31 health service provider that he or she is subject to supervision by the
32 department of corrections, the mental health services provider shall
33 notify the department of corrections that he or she is treating the
34 offender and shall notify the offender that his or her community
35 corrections officer will be notified of the treatment, provided that if
36 the offender has received relief from disclosure pursuant to RCW
37 9.94A.562, 70.96A.155, or 71.05.132 and the offender has provided the
38 mental health services provider with a copy of the order granting

1 relief from disclosure pursuant to RCW 9.94A.562, 70.96A.155, or
2 71.05.132, the mental health services provider is not required to
3 notify the department of corrections that the mental health services
4 provider is treating the offender. The notification may be written or
5 oral and shall not require the consent of the offender. If an oral
6 notification is made, it must be confirmed by a written notification.
7 For purposes of this section, a written notification includes
8 notification by e-mail or facsimile, so long as the notifying mental
9 health service provider is clearly identified.

10 (4) The information to be released to the department of corrections
11 shall include all relevant records and reports, as defined by rule,
12 necessary for the department of corrections to carry out its duties,
13 including those records and reports identified in subsection (2) of
14 this section.

15 (5) The department and the department of corrections, in
16 consultation with regional support networks, mental health service
17 providers as defined in subsection (1) of this section, mental health
18 consumers, and advocates for persons with mental illness, shall adopt
19 rules to implement the provisions of this section related to the type
20 and scope of information to be released. These rules shall:

21 (a) Enhance and facilitate the ability of the department of
22 corrections to carry out its responsibility of planning and ensuring
23 community protection with respect to persons subject to sentencing
24 under chapter 9.94A or 9.95 RCW, including accessing and releasing or
25 disclosing information of persons who received mental health services
26 as a minor; and

27 (b) Establish requirements for the notification of persons under
28 the supervision of the department of corrections regarding the
29 provisions of this section.

30 (6) The information received by the department of corrections under
31 this section shall remain confidential and subject to the limitations
32 on disclosure outlined in chapter 71.05 RCW, except as provided in RCW
33 72.09.585.

34 (7) No mental health service provider or individual employed by a
35 mental health service provider shall be held responsible for
36 information released to or used by the department of corrections under
37 the provisions of this section or rules adopted under this section
38 except under RCW (~~(71.05.670 and)~~) 71.05.440.

1 (8) Whenever federal law or federal regulations restrict the
2 release of information contained in the treatment records of any
3 patient who receives treatment for alcoholism or drug dependency, the
4 release of the information may be restricted as necessary to comply
5 with federal law and regulations.

6 (9) This section does not modify the terms and conditions of
7 disclosure of information related to sexually transmitted diseases
8 under chapter 70.24 RCW.

9 (10) The department shall, subject to available resources,
10 electronically, or by the most cost-effective means available, provide
11 the department of corrections with the names, last dates of services,
12 and addresses of specific regional support networks and mental health
13 service providers that delivered mental health services to a person
14 subject to chapter 9.94A or 9.95 RCW pursuant to an agreement between
15 the departments.

16 **Sec. 712.** RCW 71.05.640 and 2000 c 94 s 11 are each amended to
17 read as follows:

18 (1) Procedures shall be established by resource management services
19 to provide reasonable and timely access to individual treatment
20 records. However, access may not be denied at any time to records of
21 all medications and somatic treatments received by the individual.

22 (2) Following discharge, the individual shall have a right to a
23 complete record of all medications and somatic treatments prescribed
24 during evaluation, admission, or commitment and to a copy of the
25 discharge summary prepared at the time of his or her discharge. A
26 reasonable and uniform charge for reproduction may be assessed.

27 (3) Treatment records may be modified prior to inspection to
28 protect the confidentiality of other patients or the names of any other
29 persons referred to in the record who gave information on the condition
30 that his or her identity remain confidential. Entire documents may not
31 be withheld to protect such confidentiality.

32 (4) At the time of discharge all individuals shall be informed by
33 resource management services of their rights as provided in RCW
34 (~~71.05.610~~) 71.05.620 through 71.05.690.

35 **Sec. 713.** RCW 71.05.680 and 1999 c 13 s 11 are each amended to
36 read as follows:

1 Any person who requests or obtains confidential information
2 pursuant to RCW ((71.05.610)) 71.05.620 through 71.05.690 under false
3 pretenses shall be guilty of a gross misdemeanor.

4 **Sec. 714.** RCW 71.05.690 and 1999 c 13 s 12 are each amended to
5 read as follows:

6 The department shall adopt rules to implement RCW ((71.05.610))
7 71.05.620 through 71.05.680.

8 **Sec. 715.** RCW 71.24.035 and 2001 c 334 s 7 and 2001 c 323 s 10 are
9 each reenacted and amended to read as follows:

10 (1) The department is designated as the state mental health
11 authority.

12 (2) The secretary shall provide for public, client, and licensed
13 service provider participation in developing the state mental health
14 program, developing contracts with regional support networks, and any
15 waiver request to the federal government under medicaid.

16 (3) The secretary shall provide for participation in developing the
17 state mental health program for children and other underserved
18 populations, by including representatives on any committee established
19 to provide oversight to the state mental health program.

20 (4) The secretary shall be designated as the county authority if a
21 county fails to meet state minimum standards or refuses to exercise
22 responsibilities under RCW 71.24.045.

23 (5) The secretary shall:

24 (a) Develop a biennial state mental health program that
25 incorporates county biennial needs assessments and county mental health
26 service plans and state services for mentally ill adults and children.
27 The secretary may also develop a six-year state mental health plan;

28 (b) Assure that any regional or county community mental health
29 program provides access to treatment for the county's residents in the
30 following order of priority: (i) The acutely mentally ill; (ii)
31 chronically mentally ill adults and severely emotionally disturbed
32 children; and (iii) the seriously disturbed. Such programs shall
33 provide:

34 (A) Outpatient services;

35 (B) Emergency care services for twenty-four hours per day;

1 (C) Day treatment for mentally ill persons which includes training
2 in basic living and social skills, supported work, vocational
3 rehabilitation, and day activities. Such services may include
4 therapeutic treatment. In the case of a child, day treatment includes
5 age-appropriate basic living and social skills, educational and
6 prevocational services, day activities, and therapeutic treatment;

7 (D) Screening for patients being considered for admission to state
8 mental health facilities to determine the appropriateness of admission;

9 (E) Employment services, which may include supported employment,
10 transitional work, placement in competitive employment, and other work-
11 related services, that result in mentally ill persons becoming engaged
12 in meaningful and gainful full or part-time work. Other sources of
13 funding such as the division of vocational rehabilitation may be
14 utilized by the secretary to maximize federal funding and provide for
15 integration of services;

16 (F) Consultation and education services; and

17 (G) Community support services;

18 (c) Develop and adopt rules establishing state minimum standards
19 for the delivery of mental health services pursuant to RCW 71.24.037
20 including, but not limited to:

21 (i) Licensed service providers. The secretary shall provide for
22 deeming of compliance with state minimum standards for those entities
23 accredited by recognized behavioral health accrediting bodies
24 recognized and having a current agreement with the department;

25 (ii) Regional support networks; and

26 (iii) Inpatient services, evaluation and treatment services and
27 facilities under chapter 71.05 RCW, resource management services, and
28 community support services;

29 (d) Assure that the special needs of minorities, the elderly,
30 disabled, children, and low-income persons are met within the
31 priorities established in this section;

32 (e) Establish a standard contract or contracts, consistent with
33 state minimum standards, which shall be used in contracting with
34 regional support networks or counties. The standard contract shall
35 include a maximum fund balance, which shall not exceed ten percent;

36 (f) Establish, to the extent possible, a standardized auditing
37 procedure which minimizes paperwork requirements of county authorities

1 and licensed service providers. The audit procedure shall focus on the
2 outcomes of service and not the processes for accomplishing them;

3 (g) Develop and maintain an information system to be used by the
4 state, counties, and regional support networks that includes a tracking
5 method which allows the department and regional support networks to
6 identify mental health clients' participation in any mental health
7 service or public program on an immediate basis. The information
8 system shall not include individual patient's case history files.
9 Confidentiality of client information and records shall be maintained
10 as provided in this chapter and in RCW 71.05.390, (~~71.05.400,~~
11 ~~71.05.410,~~) 71.05.420, (~~71.05.430,~~) and 71.05.440. The design of
12 the system and the data elements to be collected shall be reviewed by
13 the work group appointed by the secretary under section 5(1) of this
14 act and representing the department, regional support networks, service
15 providers, consumers, and advocates. The data elements shall be
16 designed to provide information that is needed to measure performance
17 and achieve the service outcomes (~~identified in section 5 of this~~
18 ~~act~~);

19 (h) License service providers who meet state minimum standards;

20 (i) Certify regional support networks that meet state minimum
21 standards;

22 (j) Periodically monitor the compliance of certified regional
23 support networks and their network of licensed service providers for
24 compliance with the contract between the department, the regional
25 support network, and federal and state rules at reasonable times and in
26 a reasonable manner;

27 (k) Fix fees to be paid by evaluation and treatment centers to the
28 secretary for the required inspections;

29 (l) Monitor and audit counties, regional support networks, and
30 licensed service providers as needed to assure compliance with
31 contractual agreements authorized by this chapter; and

32 (m) Adopt such rules as are necessary to implement the department's
33 responsibilities under this chapter.

34 (6) The secretary shall use available resources only for regional
35 support networks.

36 (7) Each certified regional support network and licensed service
37 provider shall file with the secretary, on request, such data,
38 statistics, schedules, and information as the secretary reasonably

1 requires. A certified regional support network or licensed service
2 provider which, without good cause, fails to furnish any data,
3 statistics, schedules, or information as requested, or files fraudulent
4 reports thereof, may have its certification or license revoked or
5 suspended.

6 (8) The secretary may suspend, revoke, limit, or restrict a
7 certification or license, or refuse to grant a certification or license
8 for failure to conform to: (a) The law; (b) applicable rules and
9 regulations; (c) applicable standards; or (d) state minimum standards.

10 (9) The superior court may restrain any regional support network or
11 service provider from operating without certification or a license or
12 any other violation of this section. The court may also review,
13 pursuant to procedures contained in chapter 34.05 RCW, any denial,
14 suspension, limitation, restriction, or revocation of certification or
15 license, and grant other relief required to enforce the provisions of
16 this chapter.

17 (10) Upon petition by the secretary, and after hearing held upon
18 reasonable notice to the facility, the superior court may issue a
19 warrant to an officer or employee of the secretary authorizing him or
20 her to enter at reasonable times, and examine the records, books, and
21 accounts of any regional support network or service provider refusing
22 to consent to inspection or examination by the authority.

23 (11) Notwithstanding the existence or pursuit of any other remedy,
24 the secretary may file an action for an injunction or other process
25 against any person or governmental unit to restrain or prevent the
26 establishment, conduct, or operation of a regional support network or
27 service provider without certification or a license under this chapter.

28 (12) The standards for certification of evaluation and treatment
29 facilities shall include standards relating to maintenance of good
30 physical and mental health and other services to be afforded persons
31 pursuant to this chapter and chapters 71.05 and 71.34 RCW, and shall
32 otherwise assure the effectuation of the purposes of these chapters.

33 (13)(a) The department, in consultation with affected parties,
34 shall establish a distribution formula that reflects county needs
35 assessments based on the number of persons who are acutely mentally
36 ill, chronically mentally ill, severely emotionally disturbed children,
37 and seriously disturbed. The formula shall take into consideration the
38 impact on counties of demographic factors in counties which result in

1 concentrations of priority populations as set forth in subsection
2 (5)(b) of this section. These factors shall include the population
3 concentrations resulting from commitments under chapters 71.05 and
4 71.34 RCW to state psychiatric hospitals, as well as concentration in
5 urban areas, at border crossings at state boundaries, and other
6 significant demographic and workload factors.

7 (b) The formula shall also include a projection of the funding
8 allocations that will result for each county, which specifies
9 allocations according to priority populations, including the allocation
10 for services to children and other underserved populations.

11 (c) After July 1, 2003, the department may allocate up to two
12 percent of total funds to be distributed to the regional support
13 networks for incentive payments to reward the achievement of superior
14 outcomes, or significantly improved outcomes, as measured by a
15 statewide performance measurement system consistent with the framework
16 recommended in the joint legislative audit and review committee's
17 performance audit of the mental health system. The department shall
18 annually report to the legislature on its criteria and allocation of
19 the incentives provided under this subsection.

20 (14) The secretary shall assume all duties assigned to the
21 nonparticipating counties under chapters 71.05, 71.34, and 71.24 RCW.
22 Such responsibilities shall include those which would have been
23 assigned to the nonparticipating counties under regional support
24 networks.

25 The regional support networks, or the secretary's assumption of all
26 responsibilities under chapters 71.05, 71.34, and 71.24 RCW, shall be
27 included in all state and federal plans affecting the state mental
28 health program including at least those required by this chapter, the
29 medicaid program, and P.L. 99-660. Nothing in these plans shall be
30 inconsistent with the intent and requirements of this chapter.

31 (15) The secretary shall:

32 (a) Disburse funds for the regional support networks within sixty
33 days of approval of the biennial contract. The department must either
34 approve or reject the biennial contract within sixty days of receipt.

35 (b) Enter into biennial contracts with regional support networks.
36 The contracts shall be consistent with available resources. No
37 contract shall be approved that does not include progress toward

1 meeting the goals of this chapter by taking responsibility for: (i)
2 Short-term commitments; (ii) residential care; and (iii) emergency
3 response systems.

4 (c) Allocate one hundred percent of available resources to the
5 regional support networks in accordance with subsection (13) of this
6 section. Incentive payments authorized under subsection (13) of this
7 section may be allocated separately from other available resources.

8 (d) Notify regional support networks of their allocation of
9 available resources at least sixty days prior to the start of a new
10 biennial contract period.

11 (e) Deny funding allocations to regional support networks based
12 solely upon formal findings of noncompliance with the terms of the
13 regional support network's contract with the department. Written
14 notice and at least thirty days for corrective action must precede any
15 such action. In such cases, regional support networks shall have full
16 rights to appeal under chapter 34.05 RCW.

17 (16) The department, in cooperation with the state congressional
18 delegation, shall actively seek waivers of federal requirements and
19 such modifications of federal regulations as are necessary to allow
20 federal medicaid reimbursement for services provided by free-standing
21 evaluation and treatment facilities certified under chapter 71.05 RCW.
22 The department shall periodically report its efforts to the appropriate
23 committees of the senate and the house of representatives.

24 PART VIII

25 MISCELLANEOUS PROVISIONS

26 NEW SECTION. **Sec. 801.** RCW 71.05.035 is recodified as a new
27 section in chapter 71A.12 RCW.

28 NEW SECTION. **Sec. 802.** A new section is added to chapter 43.20A
29 RCW to read as follows:

30 Beginning July 1, 2007, the secretary shall require, in the
31 contracts the department negotiates pursuant to chapters 71.24 and
32 70.96A RCW, that any vendor rate increases provided for mental health
33 and chemical dependency treatment providers or programs who are parties
34 to the contract or subcontractors of any party to the contract shall be
35 prioritized to those providers and programs that maximize the use of

1 evidence-based and research-based practices, as those terms are defined
2 in section 603 of this act, unless otherwise designated by the
3 legislature.

4 NEW SECTION. **Sec. 803.** A new section is added to chapter 71.24
5 RCW to read as follows:

6 The department shall require each regional support network to
7 provide for a separately funded mental health ombudsman office in each
8 regional support network that is independent of the regional support
9 network. The ombudsman office shall maximize the use of consumer
10 advocates.

11 NEW SECTION. **Sec. 804.** A new section is added to chapter 82.14
12 RCW to read as follows:

13 (1) A county legislative authority may authorize, fix, and impose
14 a sales and use tax in accordance with the terms of this chapter.

15 (2) The tax authorized in this section shall be in addition to any
16 other taxes authorized by law and shall be collected from those persons
17 who are taxable by the state under chapters 82.08 and 82.12 RCW upon
18 the occurrence of any taxable event within the county. The rate of tax
19 shall equal one-tenth of one percent of the selling price in the case
20 of a sales tax, or value of the article used, in the case of a use tax.

21 (3) Moneys collected under this section shall be used solely for
22 the purpose of providing new or expanded chemical dependency or mental
23 health treatment services and for the operation of new or expanded
24 therapeutic court programs. Moneys collected under this section shall
25 not be used to supplant existing funding for these purposes.

26 NEW SECTION. **Sec. 805.** A new section is added to chapter 71.24
27 RCW to read as follows:

28 The department may establish new regional support network
29 boundaries in any part of the state where more than one network chooses
30 not to respond to, or is unable to substantially meet the requirements
31 of, the request for qualifications under 2005 c . . . (Engrossed Second
32 Substitute House Bill No. 1290, as amended by the Senate) s 4 or where
33 a regional support network is subject to procurement under 2005 c
34 . . . (Engrossed Second Substitute House Bill No. 1290, as amended by
35 the Senate) s 6. The department may establish no fewer than eight and

1 no more than fourteen regional support networks under this chapter. No
2 entity shall be responsible for more than three regional support
3 networks.

4 ***NEW SECTION. Sec. 806.** 2005 c ... (Engrossed Second Substitute
5 **House Bill No. 1290, as amended by the Senate) s 5 is hereby repealed.**
**Sec. 806 was vetoed. See message at end of chapter.*

6 **NEW SECTION. Sec. 807.** If any provision of this act or its
7 application to any person or circumstance is held invalid, the
8 remainder of the act or the application of the provision to other
9 persons or circumstances is not affected.

10 **NEW SECTION. Sec. 808.** This act shall be so applied and construed
11 as to effectuate its general purpose to make uniform the law with
12 respect to the subject of this act among those states which enact it.

13 **NEW SECTION. Sec. 809.** Captions, part headings, and subheadings
14 used in this act are not part of the law.

15 **NEW SECTION. Sec. 810.** If specific funding for the purposes of
16 sections 203, 217, 220, 301, 303, 305, 505, 601, and 605 of this act,
17 referencing the section by section number and by bill or chapter
18 number, is not provided by June 30, 2005, each section not referenced
19 is null and void.

20 **NEW SECTION. Sec. 811.** (1) The code reviser shall alphabetize and
21 renumber the definitions, and correct any internal references affected
22 by this act.

23 (2) The code reviser shall replace all references to "county
24 designated mental health professional" with "designated mental health
25 professional" in the Revised Code of Washington.

26 **NEW SECTION. Sec. 812.** (1) The secretary of the department of
27 social and health services may adopt rules as necessary to implement
28 the provisions of this act.

29 (2) The secretary of corrections may adopt rules as necessary to
30 implement the provisions of this act.

1 NEW SECTION. **Sec. 813.** (1) Except for section 503 of this act,
2 this act is necessary for the immediate preservation of the public
3 peace, health, or safety, or support of the state government and its
4 existing public institutions, and takes effect July 1, 2005.

5 (2) Section 503 of this act takes effect July 1, 2006.
 Passed by the Senate April 22, 2005.
 Passed by the House April 21, 2005.
 Approved by the Governor May 17, 2005, with the exception of
 certain items that were vetoed.
 Filed in Office of Secretary of State May 17, 2005.

Note: Governor's explanation of partial veto is as follows:

"I am returning, without my approval as to Sections 402, 603, 604 and 806, Engrossed Second Substitute Senate Bill No. 5763 entitled:

"AN ACT Relating to the omnibus treatment of mental and substance abuse disorders act of 2005."

Section 402 describes the Legislature's intent to authorize the Department of Social and Health Services (DSHS) to license a new type of facility called Enhanced Services Facilities. This section states that some clients have been repeatedly served in inappropriate settings or discharged without an appropriate placement. Although the development of a new facility type may well afford service providers an opportunity to deliver more effective services to persons with mental disorders, it is not reasonable to assume that such services were or are being provided inappropriately.

Although the Legislature appropriated funds in the 2005-2007 operating budget to fund many of the activities included in this bill, no funds were appropriated to implement Sections 603 and 604. Section 603 directs the DSHS to undertake a project, in collaboration with a broad array of stakeholders, to develop a set of matrices of service best practices. Section 604 directs the DSHS to undertake two collaboration projects with different groups of stakeholders to identify ways to provide mental health services to children who are not eligible for the state's Medicaid funded mental health services. With the passage of both this bill and Engrossed Second Substitute House Bill 1290, the DSHS' Mental Health Division will have many large projects to implement over the next biennium. I do not believe it is reasonable to include several additional unfunded smaller projects to DSHS' already large project list.

Section 806 repeals Section 5 in Engrossed Second Substitute House Bill No. 1290. Section 806 is unnecessary as I vetoed Section 5 in Engrossed Second Substitute House Bill No. 1290 today.

For these reasons, I have vetoed Sections 402, 603, 604 and 806 of Engrossed Second Substitute Senate Bill No. 5763.

With the exception of Sections 402, 603, 604 and 806, Engrossed Second Substitute Senate Bill No. 5763 is approved."